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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

MACON COUNTY INVESTMENTS,)
INC.; REACH ONE, TEACH)
ONE OF AMERICA, INC.,)
Plaintiffs,)
-vs-) CASE NO.
SHERIFF DAVID WARREN,) 3:06-CV-224-WKW
in his official capacity)
as the SHERIFF OF MACON)
COUNTY, ALABAMA,)
Defendant.)

STIPULATIONS

IT IS STIPULATED AND AGREED, by and between the parties through their respective counsel, that the deposition of:

DAVID M. WARREN,

may be taken before Belinda S. Brewster, Commissioner and Notary Public for the State of Alabama at Large, on the 15th day of August, 2006, commencing at approximately 9:10 a.m., at the law offices of Thomas, Means, Gillis & Seay,

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P.C., 3121 Zelda Court, Montgomery, Alabama; said deposition taken pursuant to the Federal Rules of Civil Procedure.

IT IS STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions, except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said deposition is offered in evidence, or prior thereto.

In accordance with Rule 5(d) of The Alabama Rules of Civil Procedure, as amended, effective May 15, 1988, I, Belinda S. Brewster, am hereby delivering to Kenneth L. Thomas the original transcript of the oral testimony of David M. Warren taken on the 15th day of August, 2006, along with exhibits.

Please be advised that this is the same and not retained by the Court Reporter, nor filed with the Court.

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APPEARANCES

KENNETH L. THOMAS and RAMADANAH SALAAM-JONES, Attorneys-at-Law, of the law firm of THOMAS, MEANS, GILLIS & SEAY, P.C., 3121 Zelda Court, Montgomery, Alabama 36106; appearing as counsel for the Plaintiffs.

GARY A. GRASSO, Attorney-at-Law, of the law firm of GRASSO DUNLEAVY, P.C., 7020 County Line Road, Suite 100, Burr Ridge, Illinois 60527; appearing as counsel for the Plaintiffs.

FRED D. GRAY and FRED D. GRAY, JR., Attorneys-at-Law, of the law firm of GRAY, LANGFORD, SAPP, McGOWAN, GRAY & NATHANSON, 104 W. Northside Street, Tuskegee, Alabama 36083; appearing as counsel for the Defendant.

ALSO PRESENT:

CHARLANNA SPENCER, SASSER, BOLTON, STIDMAN & SEFTON, P.C.

GREG A. CARR, SR., Attorney-at-Law

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APPEARANCES (Cont'd.)

REVEREND WALTER WALKER, REACH ONE, TEACH ONE

FRANK THOMAS, MACON COUNTY INVESTMENTS, INC.

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Plaintiffs'

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2	Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County (11 Pages)	23
3	2006 Class B Bingo License, Tuskegee Human & Civil Rights & Multicultural Center (3 Pages)	103

EXHIBITS (Cont'd.)

Plaintiffs'

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4	First Amended and Restated Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County, Alabama (14 Pages)	112
5	2006 Class B - Bingo License Franklin Volunteer Fire Department (3 Pages)	175
6	Second Amended and Restated Rules and Regulations for the Licensing and Operation of Bingo Games In Macon County, Alabama (13 Pages)	175
7	News Release, A.G. King Announces Findings of his Gambling Review, 12-1-04 (4 Pages)	185
8	Various 2006 Class B - Bingo Licenses (155 Pages)	219
9	Bingo Package (55 Pages)	228

EXHIBITS

Plaintiffs'

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11	Instructions for Bingo License Application (2 Pages)	254
12	Application for Bingo License Dated 12-8-03 (2 Pages)	271
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15	Newspaper Article	321

REPORTER'S NOTE: Plaintiff's Exhibit No. 15 not furnished to court reporter.

I, Belinda S. Brewster, as Commissioner and Notary Public for the State of Alabama at Large, certify that pursuant to Rule 30 of the Alabama Rules of Civil Procedure and the foregoing stipulations of counsel, there came before me at the law offices of Thomas, Means, Gillis & Seay, P.C., 3121 Zelda Court, Montgomery, Alabama 36106, on the 15th day of August, 2006, commencing at approximately 9:10 a.m., David M. Warren, witness in the above cause, for oral examination and the following proceedings were had:

COURT REPORTER: Usual stipulations?

MR. GRAY, JR.: Read and sign.

DAVID M. WARREN,

a witness of lawful age, having sworn or affirmed to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION BY MR. THOMAS:

Q. Sheriff, your attorney just advised that you wanted to read and sign. Do you

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understand what that is?
A. No.
MR. THOMAS: Okay. Fred, do you need to explain it to him?
MR. GRAY, JR.: Just that when we -- once the transcript is prepared, then you'll have an opportunity to review it so that if there are any corrections that need to be made you'll have an opportunity to do that.
Q. (By Mr. Thomas) Do you have any questions regarding that, sheriff?
A. No.
Q. Sheriff, my name is -- and if I may, from time to time, can I just call you sheriff as opposed to --
A. That's fine.
Q. -- Sheriff David Warren?
A. That's fine.
Q. Sheriff, if I may, let me introduce myself. My name is Kenneth Thomas and I, along with Ramadanah Salaam-Jones and Gary Grasso, represent the plaintiffs in the lawsuit that has been filed against you, which is styled

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Montgomery County Investments, Inc. and Reach One, Teach One versus Sheriff David Warren.
A. Uh-huh (affirmative).
Q. You are familiar with that lawsuit, aren't you?
A. Yes.
Q. Okay. Sheriff, also present are parties and some attorneys. And I think your attorneys of record are Mr. Fred Gray, Sr. and also Mr. Fred Gray, Jr.; is that correct?
A. Yes.
Q. There is a representative who represents some proposed intervenors into the lawsuit.
MR. THOMAS: And please forgive me. Could I have your name?
MS. SPENCER: Charlanna Spencer.
Q. (By Mr. Thomas) And she, along with John Bolton, represent those proposed intervenors. Okay. The Court has not ruled on that. So she, nor Mr. Bolton, will be asking any questions here today.
Okay?

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A. (Whereupon, the witness indicated an affirmative response by nodding his head up and down.)
Q. I will do my best to make my questions as clear as possible. Sometimes I've been told I fail to do that. Okay. But if anywhere along the line you do not understand any question that I ask of you, don't hesitate to let me know, and I will reask it or rephrase it.
Okay?
A. Yes.
MR. GRAY, JR.: Kenny, do you mind if I ask one questions?
MR. THOMAS: Yes.
MR. GRAY, JR.: I noticed there are some others at the table. Would you identify them and their capacities today?
MR. THOMAS: If I could, Mr. Frank Thomas from MCI, Montgomery County Investments; Mr. Greg Carr from MCI and also Reverend Walker, Reach One, Teach One.
MR. GRAY, JR.: Okay.

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MR. THOMAS: And those are the people present.
Q. Okay. Sheriff, you've been served with plaintiffs' notice of taking your deposition for here today?
A. Yes.
Q. And you have also been previously served with plaintiffs' request for admissions and also the plaintiffs' first set of interrogatories and request for production of documents?
A. Yes.
Q. And your attorney, through your approval, has submitted responses to that?
A. Yes.
Q. Okay. Are you on any particular medication or anything that possibly would inhibit or prohibit you from being able to answer questions here today?
A. No.
Q. Is there anything you would like to bring to the Court's attention or the parties' attention that might interfere with your ability

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to answer any questions?
A. No.
Q. If we may, sheriff, I'll get started.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 1 to the deposition of David M. Warren.)
Q. Sheriff, if I may, the lawsuit that has been filed basically represents a -- has raised several legal issues regarding licensing of bingo games in Macon County.
And what I would like to show you in Exhibit No. 1 is an amendment to the Alabama Constitution, which is referenced as Amendment 744, and it's styled Bingo Games in Macon County.
Are you familiar with this document?
A. Yes.
Q. And if you would, sheriff, I would represent to you that this amendment to the Alabama Constitution, and I think also by

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referendum, was approved by the voters on November 4th, 2003.
Is that your recollection?
A. Yes.
Q. And as provided for in Amendment 744, the operation of bingo games for prizes of money by nonprofit organizations for charitable, educational or other lawful purposes shall be legal in Macon County. The sheriff shall promulgate rules and regulations for the licensing and operation of bingo games within the county.
Sheriff, if you may, would you share with the Court what, if any, part, role or involvement you had with the passage and subsequent enactment of Amendment 744?
Did you play any part in --
A. No.
Q. -- the drafting of it?
A. No.
Q. Are you familiar with the legislative process in Alabama?
A. Yes.

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Q. Okay. Did you have any discussions with any Representative or Senator representing Macon County that possibly spearheaded or led the charge for this amendment being enacted?
A. No.
Q. Are you familiar with the name of a former Representative in Macon County by the name of Johnny Ford?
A. Yes, I am.
Q. What's your knowledge of Mr. Ford?
A. He's the Mayor of Tuskegee and later State Representative.
Q. And he's currently Mayor of Tuskegee?
A. Yes.
Q. But at times -- I'm assuming during 2003 he was a State Representative representing Macon County; is that correct?
A. Yes.
Q. And when was the first knowledge that you had about Amendment 744?
A. I would believe I -- when it was introduced in the House and when it passed and

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was -- you know, just before the voters voted on it.
Q. How long had you been sheriff in Macon County at that time. Let's say November of 2003. How long had you been sheriff?
A. 2003. Approximately eight, eight and a half years.
Q. And that would have been at least two terms, wouldn't it?
A. Yes.
Q. And it's your statement here today that no one ever said anything or sought your input or suggestions about any legislation regarding bingo gaming in Macon County?
A. That's it.
Q. You are aware that under this amendment that you are the sole authority for issuing licensing for bingo gaming in Macon County?
A. Yes.
Q. You and yourself alone?
A. Yes.
Q. And no one ever talked with you

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about it?
A. Huh-uh (negative).
Q. If I may, let me ask, what's your educational background, sheriff?
A. I'm a graduate of Tuskegee University.
Q. Not Institute?
A. Well --
Q. Tuskegee?
A. Tuskegee University.
Q. Good enough. What year did you finish there?
A. '89.
Q. And what employment have you had prior to being elected sheriff?
A. I was a police officer.
Q. And would that be with the City of Tuskegee?
A. The City of Tuskegee.
Q. And how long were you a member of the police force there in Tuskegee?
A. Approximately 20 years.
Q. And when were you first elected

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sheriff of Macon County?
A. 1995.
Q. And you're currently holding that office now?
A. Yes.
Q. Just recently winning re-election?
A. Yes.
Q. Is there any other education, training or background you've had beyond your Bachelor's degree at Tuskegee University?
A. Other than service training, professional training.
Q. In law enforcement?
A. Yes.
Q. Is that pretty much the extent of your educational background --
A. Yes, it is.
Q. -- law enforcement?
A. Uh-huh (affirmative).
Q. What was your undergraduate degree at Tuskegee University in?
A. Hospitality and management.
Q. Prior and during the year of 2003,

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had you had any training, experience or exposure to gaming?
A. No.
Q. Sheriff, if I could, again, I'd like to refer you back to Plaintiffs' Exhibit 1, Amendment 744.
The amendment states very clearly that the sheriff shall insure compliance pursuant to any rule or regulation and the following requirements, which are spelled out in Paragraphs (1) through (6).
When the statute -- I'm sorry. When the amendment went into effect, as we have stated in November of 2003, would you tell the Court in detail what you did after you were advised that this was an amendment to the Alabama Constitution?
A. I prayed --
Q. And, sheriff, I'm not trying to interrupt you. Who told you that the amendment was on the books? Who was the one -- how did you learn that Amendment 744 was on the books?
A. Johnny Ford.

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Q. Representative Johnny Ford?
A. Representative Ford.
Q. And how did that contact take place?
A. It was casual. I don't --
Q. I mean, what was said to you?
A. He simply told me that a bill had passed, but I also saw it in the paper.
Q. And when did you first recognize the responsibilities and the authorities that were granted to you by Amendment 744?
A. Immediately.
Q. And what was the first thing that you did?
A. Contacted my attorney.
Q. And I'm not going to ask you what did you say to your attorney, but who was the attorney that you contacted?
A. Fred Gray, Jr.
Q. And, again, sheriff, I want to make sure I zealously guard your attorney/client privilege. If we could, had Mr. Gray previously been representing you or the sheriff's

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department?
A. Well, since I was the police chief, yeah, and working with me.
Q. Okay. As a police chief?
A. Yes.
Q. Of the City of --
A. Tuskegee.
Q. What I would like to do now is focus on your capacity as sheriff of Macon County, and my question rephrased would be:
Did Mr. Gray represent you at times as sheriff and --
A. Yes.
Q. And what did you say to Mr. Gray?
MR. GRAY, JR.: I'm going to object to that. Attorney/client privilege. Any conversation that he and I had --
MR. THOMAS: Well, let me see --
MR. GRAY, JR.: -- would be protected by the privilege.
Q. (By Mr. Thomas) Let me see if I can rephrase it.
Sheriff, you recognize that as an

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elected officer in the position of sheriff, you are a state official?
A. Yes.
Q. So, what I want to do is focus my inquiry to you as a state official, what steps did you take initially relating to Amendment 744?
A. I contacted my attorney.
Q. And after contacting your attorney, what did you do as sheriff?
A. I began to think about the rules and regulations.
Q. And, if you would, define for me or describe to me what you did as a part of your thinking about the rules.
A. Discussed certain things with my attorney.
Q. Relating to the rules and regulations?
A. Yes.
MR. THOMAS: If I may, Fred, let me go ahead and offer as a part of his deposition Plaintiffs' Exhibit No. 1, Amendment 744.

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MR. GRAY, JR.: No objection.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 2 to the deposition of David M. Warren.)
Q. Sheriff, if I may, let me show you what has been marked as a part of your deposition as Plaintiffs' Exhibit 2. And I would ask you -- it's a rather thick document. So, I would ask you to take your time and review it and let me know if you recognize that document.
MR. THOMAS: Fred, all of them are there, but I'm going to do it separately.
MR. GRAY, JR.: Okay. Now, you realize that we -- we have three copies of the first amendment. Did you intend --
MR. THOMAS: Yeah. I see how it was done. It's the first one, and that's the way I would like for it to be. I think it's apparent we have a different understanding.
MR. GRAY, JR.: No problem.
MR. GRAY: This is the first

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amendment, not the original. You want to give him --
MR. THOMAS: This is the original.
MR. GRAY, JR.: No, no.
MR. GRAY: No. You have the first amendment, not the original one that was adopted in December in '03.
MR. THOMAS: Let me see. Hold on a second. Thanks.
MR. GRAY: All right.
MR. GRAY, JR.: He's got the original.
Q. (By Mr. Thomas) Sheriff, if you would, this is marked as Plaintiffs' Exhibit 2, and it purports to be and it's styled Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County?
A. Yes.
Q. And it bears the date of issued this the 5th day of December 2003?
A. Yes.
Q. Have you had an opportunity to review that?

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A. Yes.
Q. Are you familiar with it?
A. Yes, I am.
Q. Now, sheriff, these rules were prepared by whom?
A. My attorney.
Q. And that's Fred Gray, Jr.?
A. Uh-huh (affirmative).
Q. And if I may, could you identify for the Court your purpose in promulgating the rules and regulations?
A. These were to regulate the operation of bingo games in Macon County.
Q. As the official charged with promulgating these rules and regulations, what were you seeking to achieve?
I mean, what would be the purpose behind it? I mean, what were you trying to establish with these rules?
A. A means by which bingo games could be operated.
Q. In the rules do you have or do you -- and let me just make sure I clearly

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understand your testimony.
Is it your testimony that these rules and regulations were drafted solely by Fred Gray, Jr.?
A. Not -- wait a minute now.
Q. These rules and regulations, were they drafted by Fred Gray, Jr., your lawyer?
A. Alone?
Q. Yes.
A. I had some input.
Q. What input did you have?
A. I checked with Sheriff D.T. Marshall. He was about the closest.
Q. D.T. Marshall?
A. Yes.
Q. And he is the sheriff where?
A. Montgomery County.
Q. Okay. And what, if anything, did Sheriff Marshall provide to you or say to you?
A. I just visited him in his office, and he referred me to the person over bingo. He gave me -- he talked to me about it and gave me a copy of their rules and regulations.

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Q. Now, when you say the person over bingo, is that in Montgomery County?
A. Montgomery County.
Q. Who is that person you talked to?
A. I don't recollect.
Q. The amendment was enacted in November of '03, 2003. When was this discussion with Sheriff Marshall in that time frame?
A. Maybe -- maybe a week or two after.
Q. And is it your statement that in these rules and regulations there's some parts that are attributable to Sheriff D.T. Marshall?
A. I'm sure we used some of what was there.
Q. Okay. Well, since they are your rules and regulations, what part did you use?
A. Parts that related to bingo. I mean, you know, just --
Q. But what part? Sheriff, in your first set of rules you have 16 Sections. And if I could, just what part of the 16 or what Sections of the 16 do you attribute to D.T. Marshall?

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A. Mainly just -- just the framework. Once I read it, mainly the framework.
Q. Does Montgomery County have a constitutional amendment permitting bingo gaming in Montgomery County?
A. I'm not sure.
Q. I would represent to you it does not.
A. Uh-huh (affirmative).
Q. You are generally familiar with there are only --
MR. GRAY: Let me ask you, are you representing to him that they don't have legalized bingo in Montgomery County?
MR. THOMAS: Well, they don't have an amendment.
MR. GRAY: Okay. Well, I just wanted to be sure.
Q. (By Mr. Thomas) Well, are you aware of whether or not Montgomery County has an amendment permitting bingo gaming in Montgomery County?
MR. GRAY, JR.: And he answered.

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He's not sure.
Q. (By Mr. Thomas) You're not sure. Okay.
Would it be a fair assessment that all you did was just consult with Sheriff Marshall?
A. Yeah.
Q. You're not suggesting to anybody that Sheriff Marshall's framework is in these rules and regulations, are you?
A. No.
Q. I think you have previously testified that you had no background in regulation or licensing of gaming; is that correct?
A. Yes.
Q. Do you know whether or not Fred Gray, Jr. has any background in regulatory gaming or licensing of bingo or other gaming?
A. I don't know.
Q. The amendment was passed on November 4th, 2003, and less than a month later on December 5, 2003, you issued the rules?

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A. Uh-huh (affirmative).
Q. I call your attention specifically to Section 1 that's at Page 1. And under the definitions section -- if you would go to Page 2. And I refer you to (e), and it says "license holder." Per the legislation -- well, I'm sorry.
License holder is defined as any nonprofit organization that has been issued a bingo license by the sheriff pursuant to these regulations; is that correct?
A. Uh-huh (affirmative).
Q. In your opinion, what is a nonprofit organization?
A. Any -- that's an organization that operates without profit.
MR. GRAY, JR.: Now, are you asking for his definition other than that which is already set forth in his rules?
MR. THOMAS: I am. I'm asking his definition as the sheriff who was authorized to issue the rules and regulations.
Is that your --

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MR. GRAY: Sheriff, will you review not only that, but review the whole rules and see if that definition is in it.
THE WITNESS: Okay. Nonprofit organization shall mean a bona fide operation for charitable, educational or other lawful purposes which operates without profit to its members and/or which has been classified by the Internal Revenue Service as a tax exempt organization.
Q. (By Mr. Thomas) In Section (f) -- and that would be one, subparagraph (f), location.
A. Uh-huh (affirmative).
Q. What was the rationale for you defining location? What were you attempting to do in this definition of location?
A. That word would be used throughout the document. It would be -- it was just a legal definition of -- a definition that would relate to the rules and regulations.
MR. GRAY: Did you review Section (f)? When he asks you these questions, look at

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what he --
THE WITNESS: Section (f)?
MR. GRAY: Yeah. And then answer his question.
THE WITNESS: Location shall -- mine is darkened.
MR. GRAY, SR: Let the record show that the exhibit, which has been introduced or which has been identified as Plaintiffs' Exhibit 2, throughout it they are highlighting certain areas.
And what the witness is saying is when location is defined in (f) on that exhibit he can't read it, and he was handed a copy that doesn't have that highlighting.
Q. (By Mr. Thomas) Can you make it out better now, sheriff?
A. Yes. A location shall mean a building, hall, enclosure, room or outdoor area that complies with all federal, state and local laws and applicable building and fire codes.
Q. In the definition section, also, under (g) you have a Class A bingo license, and

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under Section (h) you have a Class B bingo license.
Why did you make a distinction between the two?
MR. GRAY: Sheriff, read both of those sections before you answer his question so you'll be sure you understand what he's asking you.
THE WITNESS: Ask your question again.
Q. (By Mr. Thomas) In definition -- I'm sorry. Under the definition section of section one in (g) and in (h) you have listed two types of licenses. (g), a Class A bingo license and (h), a Class B bingo license.
And my question was why did you distinguish the two?
A. Because there -- because the class -- because there would be a Class A, which would be card bingo and Class B, which would operate other forms of bingo.
Q. Well, why did you decide that? That's my question. Why?

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A. Because there would -- because in the legislation it mentioned other forms of bingo other than card bingo.
Q. And, again, that's my question. Why did you come up with another form other than card?
A. Because there would be other forms other than card.
Q. That's what you wanted, two types of forms?
A. No. The reality of it was there would be two forms.
Q. These are your rules.
A. Yes.
Q. Okay. And they were passed pursuant to Amendment 744 --
A. Uh-huh (affirmative).
Q. -- which does not make any distinction between classes of bingo.
A. Uh-huh (affirmative).
Q. This amendment enabled you to pass these rules and regulations.
A. Uh-huh (affirmative).

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Q. And I guess my point -- and I'm trying to focus on it -- why were you wanting a Class A and a Class B?
A. Because there would be -- because there would be two forms of bingo.
Q. What would the purpose of -- the Class A bingo license, what were you attempting to achieve with that license?
A. That would license the paper card bingo.
Q. And what were you attempting to achieve with the Class B bingo license?
A. That would license other forms, electronic and other forms of bingo.
Q. Now, using 2003-2006, you have had at least three years of experiences with these two licenses, right?
A. Uh-huh (affirmative).
MR. GRAY, JR.: Just a moment. You say at least three years. It really hasn't been quite that long if we look at the calendar year and 12 months.
MR. THOMAS: Yeah. That's --

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MR. GRAY, JR.: Two and half.
MR. THOMAS: November of '06 would be three.
MR. GRAY, JR.: Right, something like that.
Q. (By Mr. Thomas) Sheriff, based on to two plus years of experience you've had, have you any opinion as to which form of bingo generates the most money? Is it Class A bingo license or Class B bingo license?
A. Class B.
Q. Is it a substantial difference of generation of revenues?
A. Yes.
Q. How substantial?
A. Substantial.
Q. How substantial? Million dollar differences, multi-million dollar differences?
A. Probably.
Q. Well, I'm not trying to put words in your -- I mean, what do you consider to be substantial?
A. It's a -- it's a substantial

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difference.
Q. In the millions of dollars?
A. Yes.
Q. Now, in Section (j) and also Section (i) you go now into defining -- sheriff, let me just ask you this question before I go any further.
What did you do in order to prepare for your deposition today?
A. Went back, looked at the rules, regulations, sort of brushed up on those things and consulted with my attorney.
Q. What type of documents did you review in looking back on things?
A. The rules and regulations.
Q. All that you've passed?
A. Yes.
Q. Did you review any notes or any drafts of any things you may have had when you formulated these rules?
A. No.
Q. Sheriff, returning back to the definition section, in Sections (i) and (j) you

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go further to expand location to a phrase called "qualified location." Do you see that?
A. Uh-huh (affirmative).
MR. GRAY: But read those two sections, sheriff, so that you'll be able to answer his question that he's going to ask you about.
MR. GRASSO: There's no question pending, though, right now.
MR. GRAY: I know it, but he needs to read them --
MR. GRASSO: Well --
MR. GRAY: -- so that he'll understand the question once it's asked. You can read it now or you can read it after he's asked the question.
Q. (By Mr. Thomas) Take as much time as you need.
Shefiff, if I may ask you this.
You do understand that you can take as much time as you need to review the documents, right?
A. Yes.
Q. And you're very comfortable that

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you know when to read the documents, right?
A. Uh-huh (affirmative).
Q. Okay. I just wanted you to be at that comfort level. Okay?
A. All right.
MR. GRAY: And I also want you to realize, sheriff, and be very comfortable with every one of those definitions. Before you answer it, you have a right to read the question, understand it and then answer it as best you can.
THE WITNESS: Uh-huh (affirmative).
MR. GRAY: I don't think he has asked you a question yet.
MR. THOMAS: No.
MR. GRAY: I interrupted him. I'm sorry. I apologize.
MR. THOMAS: That's okay.
Q. Have you had a chance to review it, sheriff?
A. Yes.
Q. Sheriff, now, if I may, returning back to the definition of (f) -- you see we've

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gone over location, right?
A. Uh-huh (affirmative).
Q. Now, I'm asking you about Sections (i) and (j). And my question to you: Why did you go further to expand on location with qualified location?
A. That would be a location that would meet the requirements for conducting Class B bingo.
Q. Now, on these sections -- and I want you to think about it as Mr. Gray has suggested to you and review it thoroughly.
Did you prepare this definition, or did Fred Gray, Jr. prepare it?
And take your time and review both sections thoroughly before you answer because I want to know did you prepare them or did Fred Gray, Jr. prepare these two sections.
A. We sort of prepared them together.
Q. The two of you-all?
A. Yes.
Q. Okay. Now, under (i), the definition of qualified location, it basically

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is just three lines. And I guess my question to you: Why such a limited definition for qualified location for a Class A bingo license as opposed to a more expansive definition of a qualified location for the holder of a Class B bingo license?
A. The Class A bingo license was a more traditional form of bingo. The Class B license would cover the more elaborate form of bingo.
Q. Sheriff, have you issued any Class A bingo licenses?
A. B. Class A?
Q. Excuse me. Class A bingo licenses.
A. Yes.
Q. Could you identify for the Court the types of organizations that get Class A bingo licenses or have been issued Class A bingo licenses?
A. The Nile Club, which is a -- sort of a club.
Q. Sort of a club. I mean, I didn't get that part.

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A. It's a club, but it's -- it's a club.
MR. GRAY, JR.: When you say type, do you mean whether it's a for-profit or a nonprofit organization? When you say type of organization, what do you mean?
MR. THOMAS: I'll just have to yield to the sheriff's definition.
Q. I mean, what type of organizations get Class A bingo licenses?
A. Oh. The Catholic school, a church maybe, clubs that are attached to nonprofit organizations.
Q. Well, that's the same for Class B, isn't it? I mean, you can't get a license unless you are nonprofit, right?
A. Uh-huh (affirmative).
Q. I mean, I don't care what class you're in. You must be nonprofit, right?
A. Yes.
Q. So, has the Class A bingo licenses that you've issued been maybe to religious organizations?

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A. Well -- well, ask that again.
Q. Well, let me go at it this way. About how many Class A bingo licenses have you issued in the last two and a half years?
A. One so far.
Q. One. And that was issued to?
A. The Nile Club.
Q. The Nile?
A. Uh-huh (affirmative).
Q. Is that N-I-L-E?
A. Uh-huh (affirmative).
Q. And you said club?
A. It's really the Nile NCO Club.
Q. NCO. What does NCO stand for?
A. Noncommissioned officer.
Q. And where are they located?
A. In Tuskegee.
Q. Where about?
A. Out on Highway 81, just north of --
Q. Do you know the name of any of the principals of the nonprofit organization that you issued the license to?
A. I know there are names, but they

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sort of fail me now.
Q. Do you have any records or anything you could refer to?
A. Not with me.
Q. But do you have access to any?
A. Not with me.
Q. No, no. Do you have access to any? In your office, in a file cabinet?
A. Yes.
Q. Would you have any objection to producing the names of the principals in that, or just the license for the Class A bingo license?
A. It's the NCO Nile Club.
Q. Sir?
A. Ask your question again.
Q. Would you have any objections to producing for me the Class A bingo license that that you issued, the one Class A bingo license that you issued?
A. No.
Q. Okay. Thank you.
MR. THOMAS: Fred, we'll just go

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ahead and note that and just do a wish list.
MR. GRAY, JR.: All right.
Q. (By Mr. Thomas) Now, why the more expansive definition for the qualified location for the holder of a Class B bingo license?
A. That would probably be -- that's because it was more elaborate. It would be attended by more people.
Q. When you say elaborate, I jump to the conclusion that they are more revenue-generating. Is that a fair assessment when you say elaborate?
I mean, I'm not getting your definition of elaborate.
A. Well, maybe elaborate was the wrong choice of words. It would -- it would be a more -- that would -- it would be more revenue-generating and probably attended by more people.
Q. Staying there in Section (j), why the requirement of public liability insurance in an amount not less than $5 million?
A. Because it would probably be -- you

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know, you need insurance if you're going to run a facility.
Q. But you didn't require any liability insurance for the Class A bingo license. Per your definition now. I'm just going on your definition.
A. Uh-huh (affirmative).
Q. And please review it.
A. Sure.
Q. Under (i) there is no reference whatsoever to any amount of public liability insurance in any amount.
A. Uh-huh (affirmative).
Q. Right?
A. Yes.
Q. And my question to you is why the requirement here of public liability insurance in an amount not less than $5 million?
A. That would -- because it would be -- that would be feasible in that there would be more people attending, more activity there.
Q. Now, these rules were just passed maybe 25 to 30 days after the legislation had

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been enacted, right?
A. Uh-huh (affirmative).
Q. So, what did you base your assumption that more people would be there on? I mean, you only -- I mean, 30 days.
A. Well, this would -- it would be played at a larger place.
Q. Well, I mean, but how did you know that? If the -- I'm sorry. If the amendment is approved on November 4th, 2003, right?
A. Yes. Uh-huh (affirmative).
Q. And you issued the rules on December 5th, 2003, within a 25 to 30-day period. How did you know that more people would be there, I guess is my question?
A. After conversations with my attorney. And we knew that this would probably be played at VictoryLand.
Q. Now, that's my question to you. It is a fair statement that from November 4th, 2003, to December 5th, 2003, that period of time, you had never issued a license, right?
A. No.

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Q. Because it had just been approved, right?
A. Excuse me?
Q. I mean, the amendment had just been adopted by the legislature, right?
A. Ask your question again in its entirety.
Q. Amendment 744 was passed on about November 4th, 2003?
A. Right.
Q. Your first set of rules are issued on December 5, 2003?
A. Yes.
Q. Thirty-one days later?
A. Yes.
Q. So, that means obviously there was no bingo in Macon County from November 4th to December 5th, was it?
A. Right.
Q. Now, my question: How did you know that it would be at VictoryLand?
A. That was the only other -- that was the only gaming place in Macon County.

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Q. Did someone from VictoryLand tell you they would want a license?
A. I think that was obvious that they would want a license.
Q. Why?
A. Class B bingo is more -- would be more suited to a location -- Class B bingo is electronic bingo, and it would be -- it only stands to reason that it would be -- if it's going to operate in Macon County, that it would be --
Q. I'm not following you, sheriff. Electronic bingo was being conducted in Macon County prior to November 4th, 2003?
A. No.
Q. All right. Is it a fair statement that there was no legalized bingo gaming in Macon County prior to --
A. Correct.
Q. Is that a fair assumption?
A. Right.
Q. Right?
A. Uh-huh (affirmative).

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Q. So, the legislation -- the amendment is passed on November 4th, 2003.
And my question again to you: How did you know that VictoryLand would be interested in a license? Had anybody contacted you from VictoryLand?
A. No.
Q. Okay. Now, if I'm not mistaken, the Gray law firm also represents VictoryLand and has for a period of time; is that correct?
Are you aware of that?
A. Yes.
Q. And it's the same law firm through Fred Gray, Jr. that you're using to assists you in preparing these rules?
A. Yes.
Q. Do you know Milton McGreggor?
A. Yes, I know Milton.
Q. Did he contact you at any time prior to December 5, 2003, and express to you an interest that he would be interested in a Class B bingo license?
A. Prior to 2003?

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Q. No. Prior to December 5, 2003.
A. Ask that -- ask that again.
Q. Okay. Your rules are issued on December 5, 2003, right?
A. Yes.
Q. That's on this page, right?
A. Uh-huh (affirmative).
Q. You have already confirmed for me that prior to November 4th, 2003, prior to the enactment of Amendment 744, there was no legalized bingo gaming in Macon County, right?
A. Right.
Q. So, my question to you, based on your earlier responses that VictoryLand would be the logical place --
A. Oh.
Q. I'm trying to figure out how did you get to that conclusion.
A. You're asking how did I come to that conclusion?
Q. Yes. I mean, let me say this if I could. We were addressing the requirements of a qualified location in Section (j), right?

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A. Uh-huh (affirmative).
Q. And I was asking you why the public liability insurance in the amount of no less than $5 million, right?
A. Uh-huh (affirmative).
Q. And you testified to some extent that the only logical place would be VictoryLand.
A. Well, there was interest expressed.
Q. By whom?
A. Milton McGreggor.
Q. And if I'm not mistaken -- and I don't know any great details. But would you describe for the Court what you, as sheriff, understood Milton McGreggor's relationship with VictoryLand was and is?
A. He's the owner/operator.
Q. He's the owner/operator. Okay. And using the time frame of -- using the time frame of November 4th, 2003, to December 5, 2003, when did Milton McGreggor contact you to express an interest?
A. No. I had a conversation with him

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in the presence of my attorney.
Q. When?
A. Probably a week after the passage.
Q. Okay. It was passed on November 4th, 2003. Seven days thereafter would be somewhere around November 11th or 12th, 2003. You said a week after.
A. It may have been earlier. I'm really not --
Q. How much earlier?
A. I don't recollect.
Q. Would it have been before 744 was passed, Amendment 744 was passed?
A. No.
Q. Okay. What did Mr. McGreggor say to you?
A. He expressed an interest in conducting bingo.
Q. What form of bingo?
A. The electronic form.
Q. How did he know -- well, I'm sorry. Had you told anybody that there would be two forms of bingo?

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A. I discussed that with my attorney.
Q. Did you tell anyone outside of your attorney that your rules and regulations were going to provide for two classes of bingo, Class A and Class B?
A. I discussed that with my attorney.
Q. My question was with anyone outside of your attorney?
MR. GRAY: At what point in time?
MR. THOMAS: At the point in time between November 4th, 2003 and December 5, 2003.
THE WITNESS: I don't recollect.
Q. (By Mr. Thomas) Well, to your lest knowledge, how would anyone have known that there were going to be two forms of licenses for bingo? How would anybody know if you only told your attorney?
A. How would anybody --
Q. Know --
A. -- know?
Q. -- that there would be two forms of bingo licensure in Macon County?
Because your rules had not been

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promulgated and issued until December 5, right? So, from November 4th to December 5 only two people knew about two forms of licenses for bingo; is that correct?
A. I'm not sure.
Q. What do you mean? I mean, you were the one that were making the rules, right?
A. Uh-huh (affirmative).
Q. You had only discussed it with right?
A. I discussed it with my attorney.
Q. Right. And also your attorney. So, those are to two people, right?
A. Uh-huh (affirmative).
Q. So, who else would know other than the two you've identified?
A. I don't understand your question.
Q. Well, you said that Mr. McGreggor had expressed an interest to you about the electronic bingo --
A. Uh-huh (affirmative).
Q. -- before December 5, 2003.
A. Before December 5, 2003?

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Q. Yes, sir. Before you issued your rules you testified that Mr. McGreggor expressed to you his interest or concern about electronic bingo in Macon County.
A. Yes, yes.
MR. GRAY, JR.: Finish your question now. He expressed an interest. He said yes. Go ahead.
Q. (By Mr. Thomas) Okay. And my question to you: If you and your attorney are the only two that knew that there were going to be two forms of licensure, Class A and Class B, for bingo, how did Mr. McGreggor know?
MR. GRAY, JR.: How did he know what?
Q. (By Mr. Thomas) How could Mr. McGreggor ask you about the Class B electronic license?
MR. GRAY, JR: Well, he asked electronic according to the testimony.
THE WITNESS: Electronic.
MR. GRAY, JR: He didn't say anything about Class A or Class B.

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Q. (By Mr. Thomas) Well, about the electronic then?
A. The legislation.
(Whereupon, an off-the-record discussion was held.)
MR. GRAY: She said there's no distinction.
MR. THOMAS: And that's why I wanted to -- and you may want to look at that. The legislation doesn't say anything about electronic bingo.
MR. GRAY, JR.: So, you're asking him how would Mr. McGreggor know --
MR. THOMAS: I'm just trying to --
MR. GRAY, JR.: You're asking for him really to testify about -- you're asking mental operation. He would not know how a person would know.
MR. THOMAS: Okay.
MR. GRAY, JR.: That would be as simple as that. At least --
MR. THOMAS: Well --
MR. GRASSO: Unless they had a

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common attorney.
Q. (By Mr. Thomas) Let's see if we can get it this way. And just follow me, sheriff.
Amendment 744 was passed on November 4th, 2003?
A. Yes.
Q. Your rules and regulations, per the date, were not issued until December 5, 2003.
And you do recall about a week or so after the passage of Amendment 744, Mr. McGreggor contacted you and expressed some interest or concern for electronic bingo?
A. Uh-huh (affirmative).
Q. Is that a fact?
A. Yes.
Q. Okay.
A. Now --
MR. GRAY: You've answered it.
THE WITNESS: Yes.
Q. (By Mr. Thomas) Is there anything you would like to clarify your answer on?
A. No.

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Q. We want your answers complete now.
A. Sure.
Q. Now, if we could, let's return back to (j). Did anybody else other than Milton McGreggor contact you between this period of November 5, '03 and December -- I'm sorry, November 4th and December 5, '03?
Did anybody else contact you on behalf of VictoryLand?
A. I can't recall.
Q. Do you know the name of Sarge -- and I want to spell it, S-A-R-G-E -- Whitehead?
A. Yes, I know Sarge.
Q. If you would, who is Sarge Whitehead?
A. Sarge is the vice president of VictoryLand.
Q. And do you recall any discussions with him during this period of November 4, '03 to December 5, '03?
A. Some sort of surface conversations.
Q. And what do you mean about surface?
A. Just this would be good for Macon

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County, whatever.
Q. And what did he say to you?
A. That's basically it. And -- things like that.
Q. And at the time that he expressed that to you, he was vice president for VictoryLand?
MR. GRAY, JR.: You're asking did Sarge Whitehead tell him during this time period that he was vice president for VictoryLand?
Q. (By Mr. Thomas) No. At the time that he was making that statement to you, was he vice president of VictoryLand --
A. Yes.
Q. -- as you know it?
A. Yes.
Q. Did Mr. Whitehead say anything else about bingo gaming and VictoryLand?
A. Maybe some other references. I don't recall. But more so that it would be good for Macon County, that type of thing.
Q. Did he ever say to you on any occasion during this time period that

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VictoryLand wanted bingo gaming?
A. (No verbal response).
Q. Did Sarge Whitehead during this period of time of November 4th through December 5, '03 ever inquire or request a license for VictoryLand?
A. No.
Q. During the same period of time of November 4th through December 5 of '03, were you contacted by representative Johnny Ford on behalf of VictoryLand?
A. No. Johnny, no.
Q. Is there anybody else that I may not have identified that may have contacted you?
A. No.
Q. Now, sheriff, if we could, let's return to Section 1(j). Sheriff, this is at Page 2, and look at (ii).
A. (i)?
Q. (ii) or two.
MR. GRAY JR.: What page are you on?
MR. THOMAS: Page 2, (j).

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MR. GRAY, JR.: Okay. (j).
Q. (By Mr. Thomas) And it's (ii).
A. Uh-huh (affirmative).
Q. If liquor is served, liquor liability insurance in the amount of not less than $1 million. Why did you put this as a part of your rules and regulations?
A. Because if the people get drunk, they'll -- there is some liability there.
Q. It starts off with the condition of if liquor is served. So, if a facility was not serving liquor, they would not have to have this liability insurance. Is that a fair assessment?
A. Uh-huh (affirmative).
Q. Okay. This only comes into play if liquor is going to be served?
A. Yes.
Q. Where did you get this from?
A. My attorney.
Q. Okay. (iii) or number three, adequate parking for patrons and employees. Where did you get that from?
A. My attorney.

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Q. On-site security as prescribed by the sheriff. And that would be for? Where did you get that?
A. That was sort of mine.
Q. Now, let's talk about as prescribed by the sheriff. What type of things were you prescribing?
A. That security be present at any facility, any location that was -- while conducting bingo, this type of bingo.
Q. Number (v), on-site first aid personnel as prescribed by the sheriff. Where did you get that from, sheriff?
A. Me and my attorney came up with that.
Q. Number (vi), cash or surety bond in an amount not less than $1 million.
A. My attorney.
Q. Why not less than $1 million?
A. My attorney.
Q. Now, you are comfortable with the fact that once you promulgated these rules, they became your rules?

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A. Yes.
Q. I mean, these are your rules?
A. Yes.
Q. Now, my question again to you: As the sheriff who promulgated the rules, why a cash or surety bond in an amount not less than $1 million?
A. I acted upon the advice of my attorney.
Q. Number (vii), such accounting procedures, controls and security monitoring as necessary to preserve and promote the integrity of the operation of bingo games and to ensure the protection of the charitable license holder and its patrons.
What was the basis for the requirement of (vii)?
A. Ask the question again.
Q. What was the basis for this requirement that you've identified in your rules as (j)(vii)?
A. I think that's sort of self-explanatory.

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Q. Was this yours or your attorney's?
A. My attorney's.
Q. Now, you said attorneys. I thought from your earlier response, it was just Fred Gray.
A. I misspoke. My attorney.
MR. GRAY, JR: Apostrophe "s" is probably what he was saying. You were asking was it mine or my attorney's. He kept saying my attorney's.
MR. THOMAS: So, the questions was the possessive, my attorney's?
MR. GRAY, JR.: Exactly.
MR. THOMAS: Okay. And he just left off the possessive.
MR. GRAY, JR.: That's a possibility.
Q. (By Mr. Thomas) Okay. Sheriff, as I understood your response, it's my attorney's?
A. Uh-huh (affirmative).
Q. Sheriff, you have to respond so she can get it down.
A. Yes, yes.

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Q. And that would be Fred Gray, Jr.?
A. Yes.
MR. GRAY, JR.: Well, let me just say this because we don't know really how it's going to be transcribed in the question. We have the opportunity to read and review. We'd see it.
But when he's been saying my attorney's, it's been in the possessive tense because the question has been was this yours or your attorney's. And he's been saying my attorney's.
MR. THOMAS: And I think his last response cleared it up.
MR. GRAY, JR.: Very well.
MR. THOMAS: So, I don't have any problem with it.
MR. GRASSO: So, just for the record, every time he says attorney, he's speaking about Fred Gray, Jr.?
MR. GRAY, JR.: That's correct.
MR. THOMAS: Yeah. And he just said --

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MR. GRAY, JR.: Unless he says otherwise.
MR. THOMAS: Well, he just said that.
Q. Moving to number (viii), satisfactory evidence that the owner or owners of the location paid at least $5 million for the land, building and other capital improvements (before depreciation) comprising said location or the value of said land, building or other capital improvements (before depreciation) must be at least $5 million.
Sheriff, what was your reasoning in this section, number (viii)?
A. That was to make sure that we didn't have trailers sitting.
Q. Trailers. And any other considerations?
A. That there be substantial investment in Macon County.
Q. Any other considerations?
A. That's about it.
Q. What's magical about $5 million being substantial?
MR. GRAY, JR.: You're asking what's magical?
MR. THOMAS: Yeah. I mean, why $5 million? He said substantial --
THE WITNESS: If –

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Q. (By Mr. Thomas) Sheriff, hold on. I just want to make sure I understood your consideration for (viii).
And there were two. No trailers. And the second aspect was substantial investment.
And I'm just asking you, surely -- you know, you can get a trailer for under $5 million. You can get something other than a trailer for under $5 million. You would agree with me, right?
A. Uh-huh (affirmative).
Q. I mean, you can get a nice building for $2.5 million?
A. Uh-huh (affirmative).
Q. Then you went on to a substantial investment, and I was just trying to see why the

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line of demarcation was $5 million. That's all.
A. At the time --
Q. This is 2003.
A. Yes. At the time it seemed substantial.
Q. Okay. And was this yours? I'm sorry. Was this section drafted by the sheriff, David Warren?
A. By my attorney.
Q. Excuse me?
A. By my attorney.
Q. And, again, when we talk about --
If the $5 million relates to building, land and other capital improvements, what is other capital improvements?
A. That was added by my attorney.
Q. But as the sheriff who promulgated the rules, what is your understanding of other capital improvements?
A. I guess equipment or that type of thing.
Q. What type of equipment, sheriff?
A. Furniture, whatever it took to run

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-- whatever it took to -- there with the facility.
Q. Now, you have here in number (viii) the word "or." You see that first language, satisfactory evidence that the owner or owners of the location paid at least $5 million for the land, building and other capital improvements (before depreciation) comprising said location "or" the value of said land, building or other capital improvements (before depreciation) must be at least $5 million.
What was the reasoning of the alternative here, or the value of said land, building or other capital improvements?
A. My attorney did that.
Q. Got you. And as the sheriff who promulgated the rules, you don't have a response for me?
MR. GRAY, JR.: You just asked a question, and he just gave you a response.
MR. THOMAS: But he said his attorney prepared it. I'm asking him as the official --

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MR. GRAY: He also said he adopted all of them. So, they're his.
MR. THOMAS: Right. And I'm asking him what was it. Explain it to me. Why? If they're his, why?
Q. Why the alternative that you have in your adopted rule?
A. I act on the advice of my attorney, and that's my answer.
Q. So, is it your statement to the Court your attorney prepared these rules, and that's just it?
A. No.
Q. You know nothing about these rules; is that what you're telling the Court?
A. No.
Q. And you are comfortable that Amendment 744 said that the sheriff shall ensure compliance pursuant to any rules or regulations, right?
A. Yes.
Q. Not your attorney?
A. Uh-huh (affirmative).

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Q. Right?
A. Uh-huh (affirmative).
Q. Okay. Sheriff, returning -- and now we're on Page 3. Satisfactory evidence that the location is fully compliant with The Americans with Disabilities Act.
Is that yours?
A. Yes.
Q. What were some of your aims there with making that a requirement?
A. That's public law, isn't it?
Q. Number (x), satisfactory evidence that the owner or owners of such location have been residents of the State of Alabama for at least three (3) years; or if the owner is a partnership, association, corporation, limited liability company or other business entity, satisfactory evidence that those partners, members, or stockholders of such entity that own collectively at least two-thirds (2/3) of the voting rights and equity interests of such entity are individuals that have been residents of the State of Alabama for at least three (3)

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years.
What was the purpose of this, sheriff?
A. That was added under the advice of my attorney.
Q. Can I determine from that that your attorney prepared this?
A. Yes.
Q. Sheriff, in (k), bingo session, it says session, but really it's, what, 24 hours during the week for seven days?
A. Uh-huh (affirmative).
Q. So, a session, practically speaking, is a week?
A. Uh-huh (affirmative).
Q. Now, sheriff, when you were drafting in conjunction with your attorney Section (j), as you have alluded to, the only logical place that could meet this requirement would be VictoryLand.
Isn't that a fair assessment?
A. At that point in time.
Q. Yes. Right?

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A. Yes.
Q. So, wouldn't it be a fair statement that you, in adopting these rules, were adopting them with VictoryLand in mind?
And not saying adopting them. Promulgating them.
A. That was the only facility in Macon County at the time.
Q. To your knowledge and as sheriff for those years, what was the business at hand at VictoryLand during this time? What did they do there?
A. The dog racing.
Q. Any other activities you know of?
A. That was it.
Q. Did you ever go there?
A. Occasionally.
Q. If I could, in your capacity as sheriff?
A. Yes. I go there from time to time.
Q. You recognized that there was a large assembly of people there. I mean, you knew -- when you would go there, there would a

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lot of people there, right, watching the dogs race?
A. There would be patrons there.
Q. And you also observed readily they had parking?
A. Uh-huh (affirmative).
Q. Right?
A. Uh-huh (affirmative).
Q. You have to answer.
A. Yes.
Q. And you also observed that they had security?
A. Yes.
Q. You also observed they served liquor?
A. Yes.
Q. As sheriff, did you -- were you able to make any observations about whether or not the facility was in compliance with The Americans with Disabilities Act?
A. Yes.
Q. Okay. Sheriff, one footnote I forgot to drop. Any time you want to break, you

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just raise your hand. Okay?
A. Sure, sure.
Q. Okay. Or if you need water or anything. Okay?
A. Uh-huh (affirmative).
Q. Now, sheriff, moving on to Section 2. Well, before I leave Section (j), based on your answers, VictoryLand was a perfect fit for your rules then?
A. VictoryLand was the only facility involved in gaming in Macon County.
Q. And when you say gaming, dog racing?
A. Gaming.
Q. Well, did they do anything else other than dog racing there prior to November 2003?
A. Not to my knowledge.
Q. And as sheriff, you would know, wouldn't you?
A. Uh-huh (affirmative).
Q. Excuse me?
A. Yes.

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Q. Sheriff, looking at Section 3, bingo license required, is this pretty much what you had prepared or that of your attorney?
MR. GRAY, JR.: You're asking who drafted it?
MR. THOMAS: Yes.
MR. GRAY, JR.: Because you know you asked that in the very beginning, and he told you that I drafted them.
MR. THOMAS: But he said some parts he had input, though.
MR. GRAY, JR.: Right.
MR. THOMAS: So, I'm just trying to figure out on Section 3, who is that. Is that the sheriff or the attorney?
MR. GRAY, JR.: Okay. Because you just asked who drafted it.
MR. GRAY: I think he said he had input in all of them because they're his, but he didn't physically draft them.
MR. GRASSO: Well, I think we have the right to find out what part is his language and what part was written by Mr. Gray, Jr.

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because as of right now the record seems to indicate that everything was written by Mr. Gray, Jr.
MR. GRAY: I don't think your analysis of the testimony is correct, but --
MR. GRASSO: The transcript will speak for itself.
MR. GRAY: It will speak for itself.
MR. THOMAS: Yeah. And --
MR. GRAY, JR.: I was -- I was just trying to get the exact question so that he can answer it.
MR. THOMAS: I will repeat it.
MR. GRAY, JR.: Thank you.
Q. (By Mr. Thomas) On Section 3, bingo license required, did you, sheriff, prepare that?
A. I collaborated with my attorney.
Q. And what do you mean by collaborated?
A. We got together.
Q. So, what's your response to the

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Court? You jointly prepared it?
A. This document was jointly prepared. I had -- I was there.
Q. So, you just rubber-stamped what your lawyer prepared; is that what you're saying?
MR. GRAY, JR.: Objection. That's going into attorney/client privilege actually.
MR. GRAY: And that's not what his testimony has been.
Q. (By Mr. Thomas) Okay. Well, again, my question to him, on Section 3, did you prepare this as sheriff?
A. I collaborated with my attorney to prepare it.
Q. Okay. Now, Section 4. That's on Page 4, sheriff. In (a) it provides that any nonprofit organization, as defined herein, desiring to obtain a license to operate bingo games hereunder shall make application to the sheriff on forms prescribed by the sheriff and shall pay an annual fee $250 for a Class A bingo license and $1,000 for a Class B bingo license.

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Sheriff, why the distinction between the annual fee for a Class A bingo license and $1,000 for the Class B bingo license?
A. Class A would involve schools, churches, where they were mainly involved with raising of funds for their benefit.
Class B would involve more revenue; and, therefore, with my thinking, could afford more.
Q. Okay. And $1,000 was just a figure that you came up with?
A. Yes.
Q. Sheriff, moving further down it talks about renewal applications shall be subject to the same application fee as provided for an original application.
A. Uh-huh (affirmative).
Q. Is that correct?
A. Yes.
Q. So, the license, as stated earlier, would be good for the calendar year; is that correct?

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A. Yes.
Q. Conceptually?
A. Yes.
Q. And then whenever you renewed it, you just simply had to --
Did you have a renewal form that would be used, or what type of form would someone use to renew?
A. They'd just -- well, we use the same form. They just came in and repeated it.
Q. And then you'd just pay your --
A. Fee.
Q. -- fee based on what type of license you had?
A. Yes, sir.
Q. Got you. Then it states further should one or more Class B bingo license holders contract in a given calendar year with the owner of the Class B qualified location, the owner of said Class B qualified location shall pay a business license fee (operator's license fee) of $40,000 at the time the Class B license is issued or renewed.

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A. Yes, sir.
Q. Why $40,000 for the operator's licenses fee?
A. Again, it would -- at the time this seemed reasonable.
Q. Was this -- did you prepare it? Or did you determine the figure of $40,000?
A. Yes.
Q. Sheriff, do you know of any -- at this time, again in November of '03 to December of '03, did you know of any nonprofit organization that had land or owned land of $5 million or more?
A. I don't recall.
Q. Sheriff, moving further down in Section 4. And could you flip to Page 5. And we go to Paragraph (6). Do you see that, sheriff?
A. Yes.
Q. The exact physical location at which the applicant will conduct the bingo games and if the premises on which the games are to be conducted are not owned by the applicant, the

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names and addresses of the owners thereof and a copy of all rental, lease, consulting or other agreements with the said owners regarding the use of the premises for the operation of the bingo games.
What was your reasoning behind this section?
A. That was for information purposes. It was just for general information purposes.
Q. And I'm assuming for this whole process, the application process, you would maintain records on file of all applicants and the information they supplied, right, from any applicant?
A. (Indicating)?
Q. As a part of this process you, as the sheriff, right, would within your office have recordkeeping mechanisms in place to retain this information?
A. Yes.
Q. That is a fact, isn't it?
A. Yes, we maintain information there.
Q. Section 4, is this your

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draftsmanship, or is that of your attorney?
A. Section?
Q. The whole Section 4, starting on Page 4.
A. Yes.
Q. Got you. That's your draftsmanship? You drafted that?
A. Oh.
Q. Section 4, is that your draftsmanship? Did you prepare this?
A. This entire document is a collaboration between me and my attorney.
Q. And would you answer for Section 4? Did you prepare this? I just need your response to Section 4.
Did you prepare this?
A. Clarify. What do you mean by prepared?
Q. Did you draft it?
A. That was a collaboration between me and my attorney.
Q. That's all I need.
On Section 5 at Page 5, sheriff, it

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says upon receipt of a fully completed and documented application for a license meeting all of the requirements set out herein, the sheriff shall make such investigation as he may deem necessary or proper of the qualification of each applicant as required herein and the truth and veracity of the information contained or attached to the application and after making such investigation and after being first satisfied that all qualifications and requirements as set out herein, the sheriff shall issue such license to said applicant upon the terms and conditions herein set forth.
Is that correct?
A. Yes.
Q. In your response of processing of applications for a license, have you in fact done investigations?
A. Yes, sir.
Q. What was the last application you investigated?
A. Probably the George Washington Carver School if that -- if memory serves me

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correct.
Q. Do you know what type of license they were seeking?
A. Class B license.
Q. Again, sheriff, Section 5, who prepared that? Did you prepare that?
A. It was a collaboration.
Q. Okay. Sheriff, if we could, let's move forward to Section 8 at Page 6. Page 6, Section 8.
A. Section 8.
Q. Sheriff, Section 8 talks about fee proceeds. Do you see that?
A. Yes, sir.
Q. What was the purpose of this particular section?
A. That was to -- that was to make -- that was to provide for fees that were collected and to provide a method of safeguarding and accounting.
Q. Section 8 is a collaborative effort, again, between you and your attorney?
A. When it comes to money, I like to

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deal with Examiners of Public Accounts. I like to be accountable for that.
Q. So for Section 8, I can just note here the sheriff prepared this?
A. It was -- a lot of --
MR. GRAY, JR.: Was that a question?
MR. THOMAS: Yes. I was asking him.
Q. As to Section 8, I can note the sheriff prepared this?
A. Again, it was a collaborative effort, a lot of that, because I deal with funds came from me.
Q. And you're generally responsible for all the monies that come into the sheriff's department?
A. Yes, sir.
Q. Okay. Section 9 at Page 6. And I go directly to Section 9(c) there at the bottom, sheriff.
A. Uh-huh (affirmative).
Q. Bingo games may be operated on the

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premises owned or leased by the nonprofit organization operating the bingo game.
What was the purpose of this particular requirement, sheriff?
A. To provide a means where nonprofit organizations could conduct bingo.
Q. In other words, if they within the nonprofit organization did not own lands that met the qualified location requirement for $5 million, they could contract or lease where someone else owned land that met this requirement and conduct the Class B license?
A. Yes, sir.
Q. Number (d), a nonprofit organization may enter into a contract with any individual, firm, association or corporation to have the individual or entity operate bingo games or concessions on behalf of the nonprofit organization. A nonprofit organization may pay consulting fees to an individual or entity for any services performed in relation to the operation or conduct of a bingo game.
Sheriff, what's the basis of that

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requirement?
A. Again, to provide a method or mechanism for the nonprofits to conduct -- to conduct or have -- to conduct bingo games, to involve themselves in the bingo games.
Q. Got you. In number -- sheriff, returning back to the last sentence, a nonprofit organization may pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game, there is no monetary limit on what that consulting fee could be.
Is that accurate, there is no limitation or restriction on that?
A. No.
Q. So, if one of these nonprofit organizations wanted to pay consulting fees of $2 million to an individual or entity for services performed in relation to the operation or conduct of a Class B bingo license, they could do so?
A. That's between them and the operator.

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Q. Okay. But as far as your rules and regulations, there is no restriction or limitation on that at all?
A. No.
Q. You have to answer.
A. No.
Q. Sheriff, on Page 7 going down to Section (f), prizes given by any nonprofit organization for the playing of bingo games shall not exceed the cash amount or gifts of equivalent value set by these rules and regulations for any bingo session.
For the purpose of these rules and regulations, no single prize given by any nonprofit organization, or on its behalf, for the playing of bingo game shall exceed $1 million in cash or equivalent value during any bingo session.
What was the purpose of this, sheriff?
A. I think to -- that would be to provide a marketable -- to get people to play.
Q. Why $1 million, sheriff?

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A. It seemed like -- $1 million. That -- that would -- again, that would enhance the possibility that people are going to participate.
Q. Now, sheriff, if I may ask, I want to make sure I had the structure in mind. We know a bingo session is 24 hours for seven days a week, basically Sunday through Saturday, right?
A. Yes.
Q. And so this $1 million would be -- under your original rules only $1 million in prize or equivalent value thereof could be given in that week's period of time; is that how it worked?
MR. GRAY, JR: Take a look at that.
MR. THOMAS: Again, this is at (f), sheriff, Page 7.
MR. GRAY, JR.: And you're asking whether --
MR. THOMAS: It says during any bingo session.
MR. GRAY, JR.: Right.

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MR. THOMAS: And bingo session was previously defined as a 24-hour, seven-day period.
Q. And I wanted to find out from the sheriff if this $1 million would be on a seven-day period or could $1 million be given each day? I mean, what was the concept?
A. No single prize by any -- that's sort of self-explanatory.
Q. Okay. Well, I guess one of the problems I'm having, you have any nonprofit organization. But one or more organizations could apply for a license, couldn't they?
A. Yes.
Q. And could conduct business at the same location?
A. Uh-huh (affirmative).
Q. So, would that be with those two nonprofit organizations $2 million could be given out during a bingo session if $1 million is from each organization?
A. Ask your question again.
Q. Okay. If you would, this is on

Section (f), Page 7. For the purpose of these rules and regulations, no single prize given by any nonprofit organization, or on its behalf, for the playing of bingo games shall exceed $1 million in cash or equivalent value during any bingo session.
A. It says --
MR. GRAY, JR.: There's no question pending. You just read it, but you didn't ask your question.
Q. (By Mr. Thomas) What did you mean by that, sheriff?
A. What?
Q. Okay. How many $1 million cash prizes or equivalent value could be given out by any nonprofit organization in a bingo session?
MR. GRAY, JR.: To any one person?
MR. THOMAS: I'm just trying to ask him to interpret the language. That's all.
THE WITNESS: It says no single prize given by any nonprofit organization, or on its behalf, for the playing of bingo shall exceed $1 million in cash or equivalent value

during a bingo session.
Q. (By Mr. Thomas) Section 9, did you prepare this? Did you draft this?
A. Section -- again -- oh, on Section 9?
Q. Yes, sir. It starts at the bottom of Page 6 and goes over to the middle of Page 7.
A. This document is a collaboration between me and my attorney.
Q. And that relates to Section 9, too?
A. Yes, sir.
Q. Okay. Section 10. This is at Page 7, sheriff. We go to (a), an itemized list of all gross receipts for each bingo session, which shall include all receipts derived from the sale of bingo cards, entrance fees, donations, or from any other source whatsoever pertaining to the operation of such session..
Notwithstanding the foregoing, the holder of a Class B license who has contracted with any individual, firm, association or corporation for the operation of bingo games shall only report the Class B license holder's

gross receipts under such contract and provide a copy of such contract to the sheriff.
And my question to you, sheriff: Do you maintain records of the gross receipts from Class B license holders?
A. Yes.
Q. So, you would have in your office a listing of all of the gross receipts that Class B license holders have received during any particular calendar year?
A. The Class B license holder's gross receipts. We would hold their -- we maintain a copies of their contracts.
Q. But what about their gross receipts under any contract they may have, do you have that on file in your office?
A. Class B license holder's gross receipts.
Q. That's Sectiotn 10(a) at Page 7, the last complete sentence.
Notwithstanding the foregoing, the holder of a Class B license who has contracted with any individual, firm, association or

corporation for the operation of bingo games shall only report the Class B license holder's gross receipts under such contract and provide a copy of such contract to the sheriff.
A. We maintain a copy of the contract.
Q. If you know, where are the gross receipts of the Class B license holder reported?
A. That is -- that's the Class B -- okay. That's -- we have -- we have contracts. We have the contracts of the Class B license holders and the -- that's what we have.
Q. Sheriff, if I may, I would like to -- under the rules and regulations that you issued on December 5th, 2003, to your knowledge, for a Class B bingo license how many did you issue?
MR. GRAY: At what point?
MR. THOMAS: Again, I think it would be at any time after December 5 under these rules. They were issued on December 5.
MR. GRAY: Because I think we submitted to you copies of all of those licenses.

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MR. THOMAS: I know. The question to you --
MR. GRAY, JR.: Just does he know? Do you know how many?
THE WITNESS: I don't know right now how many.
Q. (By Mr. Thomas) Well, what -- is there anything you could refer to?
A. Those licenses themselves during that period.
Q. Well, let me ask you this. I think in your answers to interrogatories you -- I'm sorry. In your responses to plaintiffs' first request for admissions you said that a license was issued to -- and this is going to be Interrogatory No. 4.
MR. GRAY, JR.: Wait a minute. Let us get to it. You say the response to --
MR. THOMAS: Yeah. Number 4 on Page 3.
MR. GRAY, JR.: -- request for admissions you say?
MR. THOMAS: No. This is going to

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be the interrogatories.
MR. GRAY, JR.: One moment.
MR. GRAY: Interrogatory Number 4 on Page 3?
MR. THOMAS: Yes.
MR. GRAY: Identify the locations at which licensed Class B gaming currently takes place in Macon County. Is that it?
MR. THOMAS: Yes.
MR. GRAY, JR.: Let me just get to that. Just a moment before you get to that. Let me get one in front of him unless you have a copy.
Or give me a moment, and I'll get to mine.
MR. THOMAS: It's Number 4, Fred, at -- really, it's the answer -- yeah, Number 4 at Page 3.
MR. GRAY, JR.: Okay.
Q. (By Mr. Thomas) And the question is: Number 4, identify the locations at which licensed Class B bingo gaming currently takes place in Macon County, Alabama. And the

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response was: Macon County Greyhound Park, Inc.
Sheriff, my question to you: When was a license -- when was this Class B bingo license issued, if you know?
MR. GRAY: Class B bingo license issued to whom?
MR. THOMAS: I would assume it would be Macon County Greyhound Park.
MR. GRAY: They can't have a Class B license under the law.
MR. THOMAS: Well, let me ask --
MR. GRAY: It's the charity who has it. And I'm not trying to -- I'm just trying to get --
MR. THOMAS: I appreciate it. I have no problem. I can clarify it for him.
MR. GRAY: Okay.
Q. (By Mr. Thomas) Can you or do you know when the licenses were issued to the charities for the conduct of a Class B bingo game at Macon County Greyhound Park? Do you know?
A. I'd have to see the license to

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answer.
Q. Got you.
MR. GRAY: The information, counsel, is on each of those licenses --
MR. THOMAS: Certificates. I know.
MR. GRAY: -- that you have been given a copy of. And it indicates the date it was issued.
MR. THOMAS: Got you.
MR. GRASSO: Why don't we take a break? The court reporter has been going for almost two hours.
MR. THOMAS: Hold on one second. Let me get to this point real quick.
If you have no objections, Fred, I'd like to offer Plaintiffs' Exhibit 2 to be made a part of his deposition, which would be the original rules.
MR. GRAY, JR.: If you'd just be so kind as to --
MR. THOMAS: Get a clean copy?
MR. GRAY, JR.: -- get a clean copy.

MR. THOMAS: We'll do it at break.
MR. GRAY, JR.: All right. No objection.
MR. THOMAS: With that in mind, why don't we take a ten-minute break.
(Whereupon, the taking of the deposition was recessed from approximately 11:05 a.m. to approximately 11:22 a.m., after which the following proceedings were had and done:)
Q. Sheriff, if I may -- and let me just ask you, are you ready?
A. Yes.
Q. Sheriff, if I may, let me -- and I'll just show this to you for your information. This is a letter from your attorney, Fred Gray, responding and submitting to us some documents that we had requested; i.e., licenses that you've issued.
A. Yes.
Q. And just following up on my earlier question that I had asked you about what licenses you issued after you promulgated your rules, I just wanted to show you some of the

materials that your lawyer submitted to me to see if that refreshes your recollection.
A. Yes, sir.
Q. What I would like to do is just take a little sample here.
MR. THOMAS: Fred, take a look at that.
MR. GRAY, JR.: You introduced two exhibits, didn't you?
MR. THOMAS: Yeah. One was the Amendment. That's Plaintiffs' Exhibit 1, 744.
MR. GRAY, JR.: And Exhibit 2 is?
MR. THOMAS: The first rules, the originals.
MR. GRAY, JR.: The first rules. Right. Okay.
MR. THOMAS: Fred, if I could, let me have my letter back. I wanted you to inspect that document you produced to me.
MR. GRAY, JR.: All right.
MR. THOMAS: Just to get you comfortable with it before I send it to the sheriff.

MR. GRAY, JR.: All right.
MR. THOMAS: I'm going to have it marked.
MR. GRAY, JR.: Okay. I'm just getting the Bates stamp numbers.
MR. GRAY: This is going to be your next exhibit?
MR. THOMAS: Yes, Mr. Gray. Let's do three.
MR. GRAY: That's P3?
MR. THOMAS: Yeah.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 3 to the deposition of David M. Warren.)
Q. Sheriff, we've marked this document as Plaintiff's Exhibit 3. As I was explaining to you, this is taken from some documents that were produced in response to plaintiffs' first request for production of documents.
It's a three-page document. From my review of it, it possibly indicates the granting to this particular nonprofit

organization, Tuskegee Human & Civil Rights & Multicultural Center. The license is -- the first one is dated December 17th, 2003, and the other one is for 2005 and 2006.
And I would ask if you would carefully review all three of the documents and let me know when you've finished that review so I can ask you a question or two.
A. Okay.
Q. Sheriff, have you had a chance to review the document?
A. Yes, sir.
Q. And if you would, would you identify that nonprofit organization to make sure it confirms what I referenced earlier?
A. It's the Tuskegee Human & Civil Rights & Multicultural Center.
Q. And on the -- and the third page. If you would go to the third page.
A. (Complies).
Q. In the upper, right-hand corner there is a license number for this particular organization; isn't that correct?

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A. Yes.
Q. And it basically identifies that the bingo games will be operated at the following location, and it says Macon County Greyhound Park, doing business as VictoryLand, 8680 County Road 40, Shorter, Alabama 36075; is that correct?
A. Yes, sir.
Q. And that's your signature that appears at the bottom?
A. Yes, it is.
Q. Now, my question to you -- and maybe you could help me -- right under the license number is the word Class B; is that correct?
A. Yes, sir.
Q. So, this is a Class B license?
A. Yes, it is.
Q. And the date of this being issued is December 17th, 2003?
A. Yes, sir.
Q. So, as a follow-up to our earlier discussions regarding the rules and regulations

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for the licensing and operation of bingo games in Macon County that you promulgated and issued on December 5th, 2003, right --
A. Yes.
Q. -- that license there would indicate that you issued it on December 17th, 2003; is that correct?
A. Yes, sir.
Q. Some 12 days after your rules had been issued?
A. Uh-huh (affirmative).
Q. Right?
A. Yes, sir.
Q. And my question to you, as it relates to that nonprofit organization, did you do any type of investigation of that organization to determine whether or not they met all of the requirements that you had set forth in your rules?
A. Yes, sir.
Q. Would any results of any investigation have been documented and contained in your office?

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MR. GRAY, JR.: Let me just say about any investigation that the sheriff and his office did, they would be confidential and kept in -- they'd be maintained by the sheriff's department and not subject to any production in this case.
Not just with respect to this particular entity, but any of the Class B license holders.
MR. GRASSO: I would disagree with that. Maybe portions of it could be privileged. You'd have to produce a privilege log so stating. But the mere existence of those documents is certainly not privileged.
MR. THOMAS: And I would want to add to that as a part of his rules he says that he will do an investigation to make sure that they're in compliance.
MR. GRAY, JR.: Right.
MR. THOMAS: So, I think at the very least he ought to have in his record some statement saying they are in compliance, and I don't think that's confidential.

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Q. And, again, my question to you, sheriff, would you have such records, documents in your office confirming that you have investigated or conducted the investigation that you had set forth in your rules and your finding that they were in compliance?
A. Yes.
Q. And my question now to you, would you have any objection to producing those records as it relates to those nonprofit organizations that you investigated and issued licenses to?
MR. GRAY, JR.: The objection is to producing anything that comes from any of the investigative files resulting from the investigation of the sheriff or his department.
MR. THOMAS: As it relates to --
MR. GRAY, JR.: Alabama statute provides that the sheriff's investigative files are privileged. So, the objection. Yes, he objects.
MR. GRAY: We don't object to you inquiring of the sheriff whether an

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investigation took place or how it was conducted. But as far as those records themselves, I think it's privileged.

MR. THOMAS: Well, let me ask you this. Could we get some confirmation from him that he did conduct the investigation that's a part of his rules, and he made the finding that they were in compliance?

MR. GRAY: The confirmation of that is he issued the license because if he didn't -- if his investigation would have shown that they did not comply with the rules, he would not have issued it.

So, the fact that he issued the license means he conducted an investigation; and as a result of the investigation, he found them to be in compliance.

But if you want to ask him anything about that, I think he'll testify about that.

MR. THOMAS: Well, let me ask --

MR. GRASSO: With all due respect to you, Mr. Gray, there are secular reasons. We need corroboration that he did what he said he

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was going to do.

MR. THOMAS: Well, let me just see if we can just document for future efforts and whatever anybody wants to do.

MR. GRAY: Yeah.

Q. (By Mr. Thomas) Sheriff, you do have those investigations on file in your office; am I correct?

A. We keep the -- the licenses are results of the investigations themselves. In that -- in that file are all -- in those files are all of the pertinent information that you would need to determine whether an entity qualified.

Q. Okay. And I guess my only question just for identification of the records we will seek to obtain would be for each one of these Class B licenses you have issued, you have on file in your office an investigative report?

MR. GRAY: I don't think he's testified to that.

MR. THOMAS: Well, I'm asking him that.

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MR. GRAY: But he's testified that there's been an investigation.

Q. (By Mr. Thomas) Well, let me ask this question. For the licenses you have issued -- and I think some 62 have been produced.

A. Yes, sir.

Q. For these 62 licenses that you've issued, did you conduct investigations?

A. Yes.

Q. Okay. And the results of those investigations are housed in your department?

A. Yes.

Q. Okay. Got you.

MR. THOMAS: All right. Would you-all object to an in-camera inspection?

MR. GRAY, JR.: Yes.

MR. THOMAS: Well, we have a description of the documents we want. So, we can move on.

Q. Sheriff, if I may, do you recall anything in particular about any investigation you may have conducted relating to the Tuskegee Human & Civil Rights & Multicultural Center?

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Do you recall anything offhand?

A. All of the applications for Class B licenses, we follow the -- what is set in the rules and regulations without exception.

Q. Got you. Now --

MR. THOMAS: I'm sorry. I will now ask that this be made a part of his deposition, Plaintiffs' Exhibit 3, the license.

MR. GRAY, JR.: No objection.

MR. THOMAS: And I'm going to have the court reporter to mark this as Plaintiffs' Exhibit 4.

(Whereupon, said document was marked for identification as Plaintiff's Exhibit No. 4 to the deposition of David M. Warren.)

Q. Now, sheriff, if you would, take a look at Plaintiffs' Exhibit 4, and I would ask you to take your time, review it and after you've finished that, let me know if you can identify this document.

MR. GRAY, JR.: You want him to take his time and review the document in its

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entirety or just review it to determine whether or not it appears to be what it says on the front page?
Q. (By Mr. Thomas) Why don't you do the latter? Why don't you review it to see if it purports to be what is on first page.
A. Yes, sir.
Q. And then we'll go over it. Okay?
A. Yes, sir.
Q. Now, sheriff, if I may, this document here, the last page, 12. Not the commentary, but the page before that, 12.
A. Yes, sir.
Q. It bears the date of June 2nd, 2004?
A. Yes, sir.
Q. And that's your signature, right?
A. Yes, it is.
Q. And it talks about the effective date of this first amended and restated rules and regulations for the licensing and operation of bingo games in Macon County, Alabama was June 2nd, 2004, right?

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A. Yes, sir.
Q. Give or take a couple of days, this amendment comes some six months after you passed the initial rules and regulations for the licensing and operation of bingo games in Macon County?
A. Yes, sir.
Q. What, if anything, transpired in those six months that led you to amend rules that you had just issued earlier?
A. There is a commentary to all of the changes were made.
Q. Do you have any key points in mind that stick out in your mind as to what led to the amendments?
A. Again, they are all of the reasons that are discussed in the commentary.
Q. If you would, let's go to the document, Plaintiffs' Exhibit 4, and I think the initial page says Macon County bingo regulations.
A. Yes, sir.
Q. Okay. It appears that in the

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definitions section nothing really -- well, let's see. There were a few changes. So, let's just go over them. Okay.
I direct your attention to (j), which is again qualified location for holder of a Class B license.
MR. GRAY, JR.: What page and what section?
MR. THOMAS: That is going to be on the second page, Mr. Gray, and it's going to be a part I guess of Section One, definitions.
MR. GRAY, JR.: All right. Do you want him to also -- well, go ahead.
MR. GRAY: That's (f) you're saying?
MR. THOMAS: It's (j).
MR. GRAY, JR.: (j).
MR. THOMAS: H, I, J. Qualified location.
THE WITNESS: Yes, sir.
Q. (By Mr. Thomas) If you have that before you, sheriff, it appears that the public liability insurance remained the same as an

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amount not less than $5 million; is that correct?
A. Yes, sir.
Q. And in (ii) the liquor liability insurance, if served, remained at $1 million?
A. Yes, sir.
MR. GRAY, JR.: Let me do this, if I can, Mr. Thomas, because I hear the sheriff saying this in responding to you, but to be sure, can we also pull Plaintiffs' Exhibit 2, the original rules?
MR. THOMAS: He's free to refer to anything he needs to. There's Exhibit 2 for his convenience.
MR. GRAY, JR.: All right.
MR. GRAY: And what I would like for you to do, too, sheriff, go over to your commentary and look at Section 1(j), and this tells you what changes were made in 1(j).
So, take a look at that as you prepare yourself to answer his questions.
Q. (By Mr. Thomas) Sheriff, if I may ask you, again, you are familiar with these

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rules and regulations, aren't you?
A. Yes, sir.
Q. And these documents were not prepared in any rush or haste by you or anything?
A. No, sir.
Q. I'm assuming that because of their importance you're quite familiar with them; is that a fair assessment?
A. Yes, sir.
Q. Again, based on what your attorneys have suggested to you, I'll proceed. Now --
MR. GRAY: I'd like for you first, though, read section 1(j) to yourself and then keep that in mind as you answer counsel's questions, whatever he wants to ask you about that because that's the change in that particular section.
Q. (By Mr. Thomas) You can just look up when you're finished, sheriff, and I'll start.
A. Yes, sir.
Q. Okay. I thought we had a clean

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copy there. Which one are you looking at, the one I gave you, or the one your lawyer gave you, sheriff?
A. Oh, I'm looking at --
Q. I gave you one for your convenience.
A. -- Exhibit 4.
Q. Right. And sheriff, if I may, I have what we previously introduced as Plaintiffs' Exhibit 2 for your convenience. Okay?
A. Yes, sir.
Q. And you've been told by your counsel that you can refer to the commentary, right?
A. Yes, sir.
Q. And you have a clean copy in front of you, right?
A. Yes.
Q. So, you really don't need to see any other copies, do you?
MR. GRAY, JR.: He had not looked back at the commentary.

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MR. THOMAS: Okay. Well, just let him take his time. I think, counsel, you ought not to participate with yours. That's why we got him a clean copy. Because you didn't want to see what I had highlighted, did you?
MR. GRAY, JR.: No. The reason -- I didn't mind him seeing it. As a matter of fact, I don't know what you had there, but I --
MR. THOMAS: He has a clean copy, and he can see it good.
Q. You've got it before you, sheriff?
A. Yes, I've got it. Uh-huh (affirmative).
Q. You ready?
A. Yes.
Q. Now, sheriff, this is 1(j), qualified location, and we had done -- and I think we had identified that no changes had been made to public liability insurance. It still remained at $5 million.
And if liquor is served, the liquor liability insurance remained at $1 million; is that correct?

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A. Uh-huh (affirmative).
Q. You have to answer.
A. Yes, sir.
Q. Then as we move over to Page 4, the cash or surety bond remained at $1 million?
A. Yes, sir.
Q. And moving a little forward to Section (viii), satisfactory evidence that the owner or owners of the location paid at least $15 million for the land, building and other capital improvements (before depreciation) comprising said location.
Do you see that?
A. Yes.
Q. Sheriff, why did this amount increase from $5 million to $15 million in a period of six months?
A. As stated in the commentary, this would -- any persons doing -- conducting bingo in Macon County, any qualified location, this would -- this would -- this would deal with -- make sure that they made a significant investment in Macon County.

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Also, a -- not only an investment, but a commitment to Macon County, you know, before they became a qualified location.
Q. Now, sheriff, those were the same criteria that you considered seven months earlier in November of '03 through December of '03 when you were formulating your first rules.
You said that you wanted to make sure that there was something more than trailers, and you wanted a substantial investment, right?
A. Yes.
Q. And I think at that time, six or seven months earlier, $5 million was substantial in your opinion; is that correct?
A. At that time in my opinion it was.
Q. Six or seven months later it triples. And my question to you is what caused the -- what considerations caused you to triple the requirement in less than a six or seven-month period of time?
A. Reality.
Q. And what were those realities?

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A. Anybody -- knowing Macon County's history, anybody choosing to do -- to have a qualified location in Macon County would prove their commitment to Macon County by making a substantial financial investment in Macon County.
Q. What is the history of Macon County that reigned most important in your mind?
A. Fly-by-nighters.
Q. And what were some of the fly-by-nighters you experienced?
A. Just over time.
Q. Identify some.
A. Just the way I have seen things go in past time.
Q. Well, let's talk about this. The qualified location as we've shown from this exhibit, Plaintiffs' Exhibit 3, where you granted the license to the Tuskegee Human & Civil Rights & Multicultural Center --
They were the license holder, right?
A. Yes.

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Q. And they were given and told you that they were going to operate their business at Macon County Greyhound Park, doing business as VictoryLand, right?
A. Yes. Uh-huh (affirmative).
Q. Is there anything in the history of the Macon County Greyhound Park, doing business as VictoryLand, since their existence, is there anything in their history which led you to believe that they were a fly-by-nighter?
A. No.
Q. They were considered -- and, again, "they," Macon County Greyound Park, doing business as VictoryLand, was a qualified business location in December of '03, which enabled Tuskegee Human & Civil Rights & Multicultural Center to conduct bingo there, right?
A. Sure.
Q. So, in six months -- that seven-month period from December to June when you amended the rules, what caused you to think that there would be other fly-by-nighters if

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Macon County was conducting itself at least satisfactorily?
MR. GRAY, JR.: When you say if Macon County was conducting --
THE WITNESS: Ask --
MR. GRAY, JR.: -- itself satisfactorily, what do you mean?
THE WITNESS: I need to hear that again.
Q. (By Mr. Thomas) Okay. Wait a minute. Let me ask you this.
When Tuskegee Human & Civil Rights & Multicultural Center was issued its license on December 17, 2003, they identified for you that the bingo games would be operated at the following location: Macon County Greyhound Park, doing business as VictoryLand, 8680 County Road 40, Shorter Alabama 36075, right?
A. Uh-huh (affirmative).
Q. You were very familiar -- based on earlier testimony, both in your official capacity as sheriff and otherwise, you had visited with that facility on several occasions.

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A. Uh-huh (affirmative).
Q. Right?
A. Uh-huh (affirmative).
Q. You have to answer.
A. Yes.
Q. And I'll ask you, when you granted the license to Tuskegee Human & Civil Rights & Multicultural Center, did you have any issues or concerns with the qualified business location that they had identified on their application?
A. No.
Q. Did you consider as sheriff that the Macon County Greyhound Park, doing business as VictoryLand, was a compliant and reputable location for the operation of a Class B bingo license?
A. Yes.
Q. Did anything change in your mind about that location in the months of January, February, March, April, May, June and July of 2004?
A. There was an increase in attendance, an increase in participation, more

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employees.
Q. So, what -- how did that play into your, I guess, decision to raise the limit to $15 million for a qualified business location?
A. Again -- now, wait a minute. I'm sorry. Ask that again. You're sort of --
Q. Okay. I think we had established that at least in December of 2003 that the Macon County Greyhound Park, doing business as VictoryLand, was a qualified location --
A. Yes.
Q. -- for a Class B bingo license; is that correct?
A. Yes, sir.
Q. All right. You have just identified for me that in the definition of a business location for a -- I'm sorry, a qualified location for a holder of a Class B bingo license, that there had to be satisfactory evidence that the owner or owners of the location paid at least $15 million for the land; is that correct?
A. Yes, sir.

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Q. That's under your amendment, right?
A. Yes.
Q. And my question to you: Why did you increase the amount from $5 million as you had done in your first rules in December of '03 to $15 million seven months later in June of '04?
A. As I looked at things and gained more experience, it was a more realistic amount.
Q. Well, let me see if I can ask it this way.
Macon County Greyhound Park, doing business as VictoryLand, was not reviewed or assessed by you to have been an actual investment of $15 million at that time, was it?
A. I don't understand your question.
Q. Okay. Let me see if I can get it this way. VictoryLand -- if I may just shorten to refer to it as that?
A. Uh-huh (affirmative).
Q. VictoryLand could continue to be a qualified location for a Class B bingo license without being affected by the increase of $15

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million; isn't that a fact?
A. Uh-huh (affirmative).
Q. So, again, with the issuance of that license to Tuskegee Human Civil Rights & Multicultural Center as the license holder for the Class B license, right?
A. Uh-huh (affirmative).
Q. And it identifying as a qualified location VictoryLand --
A. Yes.
Q. -- who got its certification from you as a qualified location with the $5 million limit; isn't that correct?
A. Yes.
Q. Now, for any charity who wanted to do business with VictoryLand after you passed your rules in June of '04, VictoryLand did not have to be recertified as a qualified location, did it?
A. I'm not sure that I understand your question.
Q. Well, let me try it again, sheriff. Hold on one second. Let me just see if I can

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find -- do you know -- let me ask you this.
In May of 2004, do you know whether or not VictoryLand had cost $15 million? In May of 2004.
A. Did I know that VictoryLand was worth --
Q. Fifteen million.
A. -- $15 million?
Q. Yes.
A. Yes.
Q. It was worth $15 million?
A. I don't understand what you're asking me.
Q. Well, let me try it again. In December of '03 you said all qualified locations had to present to you satisfactory evidence that the owners paid least $5 million for the land, building and other capital improvements; is that correct?
A. Right.
Q. If that was produced to you, then that location became a qualified location, right?

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A. Right.
Q. Okay. And I'm assuming since VictoryLand had been identified as a qualified location, did you do any investigation of it in December of 2003 to determine whether or not it had cost $5 million?
A. Yes.
Q. Well, let me just return you back to Plaintiffs' Exhibit No. 3. When you got the application --
And I'm assuming that Tuskegee Human & Civil Rights & Multicultural Center applied for a Class B license to conduct bingo in Macon County?
A. Yes.
Q. It then identified VictoryLand as a qualified location?
A. Yes.
Q. And my question to you: Did you do any investigation or did you confirm in any formal form or manner that VictoryLand cost at least $5 million in December of '03?
A. I think it was -- did I do any

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investigation to find out if VictoryLand --
Q. Yeah.
A. -- was worth at least $5 million?
Q. Yes.
A. That was -- yes, I did.
Q. Okay. And describe for the Court what you did to determine that VictoryLand was a qualified location as a part of this Tuskegee Human & Civil Rights & Multicultural Center application.
A. It met the requirements of the rules and regulations.
Q. Of $5 million?
A. It's fairly evident that VictoryLand is worth $5 million.
Q. What do you have in your records to confirm that in December of '03 VictoryLand actually cost $5 million, at least $5 million?
A. (No verbal response).
Q. Let me see if I can return you back to your rules. Okay? This is Plaintiff's Exhibit 2.
A. Uh-huh (affirmative).

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Q. And this is the one you probably need to look at. It says qualified location, the owners must have paid at least $5 million.
A. Uh-huh (affirmative).
Q. Okay. You apparently got an application from the Tuskegee Human & Civil Rights & Multicultural Center for the Class B license because you issued one on December 17th?
A. Yes.
Q. I can safely assume they did apply?
A. Yes.
Q. And on that application, as you've set forth in the license, they said that they would conduct their business at VictoryLand?
A. Yes.
Q. Now, my question to you: What did you do to confirm that VictoryLand in December of '03 had -- the owners of it had paid $5 million?
A. I can't remember doing anything per se. I made some inquiries, but nothing formal.
Q. To whom did you make inquiries?
A. I'm not -- I'm not sure about --

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I'm not sure about who I made inquiries to on that end.
Q. Let me see if I understand this. On November 4th, 2003, the Alabama Constitution was amended to allow bingo gaming in Macon County, right?
A. Uh-huh (affirmative).
Q. Right?
A. Uh-huh (affirmative).
Q. And you were the official charged with that responsibility of promulgating rules and enforcements to do that?
A. Yes, yes.
Q. And under your first set of rules that you issued on December 5, 2003, you said that a qualified location must evidence that the owners of it paid at least $5 million for it.
A. Oh, okay. I got -- I got -- I'm just trying to remember. I'm trying to remember. We got -- we got evidence from VictoryLand I believe that confirmed their value.
Q. You used the pronoun "we." Who was

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the we?
You can look right there, sheriff. I think it's clear enough.
A. They met the requirements set out in the regulations.
Q. Sheriff, would you have any objections to producing the confirmation or whatever you considered in December of '03 which confirmed for you that the owner or owners of VictoryLand had paid, per your rules, $5 million for the land, building and other capital improvements?
Do you have such documentation?
MR. GRAY, JR.: We will produce --
THE WITNESS: I can produce that.
MR. THOMAS: Okay. Got you.
THE WITNESS: I'm pretty sure I can produce that.
MR. THOMAS: Okay. Now --
MR. GRAY, JR.: Just make sure that you send us a follow-up --
MR. THOMAS: Yeah. We'll do it. We have a little wish list.

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MR. GRAY, JR.: That's number four on the wish list?
MR. THOMAS: Three. We're going to try one more time to get the investigative reports. Just -- you know.
MR. GRAY, JR.: Oh. Your real wish list.
MR. THOMAS: Well, yeah. We want to let the Court know we at least tried to exhaust it before bringing it before it, you know.
MR. GRAY, JR.: Certainly.
Q. (By Mr. Thomas) Sheriff, now, if I may -- I've shown you and you have before you Plaintiffs' Exhibit 4, right?
A. Yes.
Q. And we were at (j), qualified location, and we were at (viii) and we were at the figure of $15 million.
Okay?
A. Uh-huh (affirmative).
Q. Now, anybody who applied for a license after these rules were put into effect

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on June 2nd, 2004, had to meet the qualifications of a nonprofit organization, right?
A. Yes.
Q. And a qualified location where the owner or owners of the location paid at least $15 million for the land?
A. Yes.
Q. Now, if I may --
MR. GRAY, JR.: When you say land, you mean land, building and other capital improvements?
MR. THOMAS: Whatever his --
MR. GRAY, JR.: Whatever it says there?
MR. THOMAS: Whatever his rules are.
MR. GRAY, JR.: Okay. So, we've been --
MR. THOMAS: I think his standard is satisfactory evidence that the owner or owners of the location paid at least $15 million for the land, building and other capital

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improvements (before depreciation) comprising the location.
Q. Is that what you intended, sheriff?
A. Yes.
Q. Now, sheriff, let me show you -- well, let me show this to counsel first. And I just want to -- before I mark it as an exhibit, I would just like to ask you a question about it.
What I'm showing to you are the documents that have been presented or produced by your attorneys. And, sheriff, I apologize for standing, but --
A. That's okay.
Q. Thank you. This is a Class B -- 2005 Class B bingo license that was issued to the Franklin Volunteer Fire Department, and it has a date of December 2004.
Do you see it? December 29th, '04, right?
A. Uh-huh (affirmative).
Q. And this license here would have been issued after your first amended rules went

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into force and effect, right? Your first amended rules went --
A. Yes, this was after.
Q. Now, sheriff, if I may, it says that the bingo games will be operated at the Macon County Greyhound Park, doing business as VictoryLand, at the address we've identified before, right?
A. Yes, sir.
Q. Before you issued this license here in December of '04, did you do any investigation or do any confirmation of VictoryLand to confirm for yourself that it was worth -- the owners at that location paid at least $15 million for the land, building and other capital improvements?
A. That's way of that documentation.
Q. You have that documentation?
A. Yes, sir.
Q. And you were satisfied?
A. Uh-huh (affirmative).
Q. Now, have you identified for the Court all of the criteria that you considered in raising the figure for a qualified location from

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$5 million to $15 million in your rules that you issued on June 2nd, 2004?
A. Okay. Let me be sure of your question.
Q. You may recall that I had asked you initially why you raised it from $5 million to $15 million?
A. Yes.
Q. And my notes suggested again you wanted to make sure that there was a substantial investment in Macon County.
A. Yes, sir.
Q. Okay. And my --
MR. GRAY, JR.: He also said and commitment.
Q. (By Mr. Thomas) And commitment. And I wanted to make sure. Are there any other criterion that you considered in raising it from $5 to $15 million?
A. Those two were main -- those were the main two.
Q. Okay. Commitment and investment?
A. Yes.

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Q. All right. Now, how did you measure commitment? What was going to be your analysis for measuring an applicant on a commitment?
A. Well, by their actions.
Q. What actions?
A. What was I going to use to --
Q. Ascertain --
A. -- measure an applicant -- ascertain an applicant's --
Q. -- someone's commitment.
A. -- commitment? Their compliance with this $15 million.
Q. Did anyone other than --
A. Among other things.
Q. What were some of the other things then?
A. Well, just their -- as you investigate and go on. And you can -- there are other factors that you can -- their commitment, their attitude, their -- you know, just the things that you would normally see from a committed person.

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Q. And we're talking about the owner or owners of a location, right?
A. Yes, sir.
Q. So, you would want to know the owner or owners' attitudes?
A. I think in the basic consideration, you would be interested in that.
Q. Some of the things you have enumerated are rather subjective. Is that true?
A. Well --
Q. You have to answer.
MR. GRAY, JR.: He just asked is it true that some of those things are subjective?
THE WITNESS: Yes.
Q. (By Mr. Thomas) So, even if I, as an owner of land, could establish clearly that the property I owned was worth more than $15 million and a nonprofit organization wanted to use my location to conduct Class B bingo, if I had the wrong attitude I still wouldn't be a qualified location?
A. I didn't say that.
Q. Well, you said that you would look

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at one's attitude.
A. I would consider that in the overall picture.
Q. Overall picture. Well, what other things would you kind of consider in the overall picture in addition to the attitude? Temperament?
A. Well, no, not -- and when I said attitude that was -- that may have been a simplistic answer, but I would most certainly want to know their true commitment to Macon County. And I would use whatever means, legal means, necessary to --
Q. Well, hypothetically, how would you assess someone's true commitment, by the number of people who vouch for the person?
A. As you consider the overall process of investigating and as you would -- number one, their commitment, their resource, their -- the results of any investigation that you do.
Q. What do you mean by resource, if an applicant's family had money?
A. No.

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Q. If an applicant's family --
A. If they had --
Q. If an applicant's family had pedigree?
A. If they -- no.
Q. I mean, I'm just asking. I'm not trying to be facetious about it, but I'm just asking.
A. I know. Basically, as it says here in the commentary, their commitment, their financial commitment to Macon County. You would use a realistic and reasonable approach to all of this.
Q. Who decided that the rules needed to be changed as it relates to this aspect?
A. I did.
Q. And if I could -- and, again, we're still on Plaintiffs' Exhibit 4.
A. Yes, sir.
Q. Sheriff, if you would, would you flip back to Section 1(d), and it's entitled nonprofit organization.
MR. GRAY: And look at your

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commentary on 1(d) also.
THE WITNESS: Okay. Section 1(d). Yes.
Q. (By Mr. Thomas) Do you see it?
A. Uh-huh (affirmative).
Q. Nonprofit organization shall mean a bona fide organization that is active in good standing for charitable, educational or other lawful purposes, which operates without profit to its members and/or which has been classified by the Internal Revenue Service as a tax exempt organization.
Sheriff, that definition of nonprofit organization appears to have been changed a little bit.
A. Yes.
Q. If you would -- and it looks like from the commentary that it was amended to add the phrase "that is active and in good standing." What do you mean by that?
A. That is actually doing things and that is in good standing.
Q. And also -- so, what is the test

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then for a nonprofit organization based on your first amended and restated rules issued on June 4th, 2004 -- June the 2nd, 2004?
A. Excuse me?
Q. What is the test based on this definition for a nonprofit organization?
A. That it is active and a viable charity in the community.
Q. As determined by you as sheriff?
A. As determined by its actions.
Q. Okay. Well, explain that for me.
A. If you are doing something useful that is beneficial to someone in need in the county or some -- you are a benefit to Macon County.
Q. As determined by you?
A. As determined by their actions.
Q. Okay. That's where I'm lost. If I'm a nonprofit organization and I provide tutorial services for kindergartners, is that active?
A. That's active.
Q. If I -- is there any period of time

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I must do that, one day, once a month, once a year? I mean, what's the standard?
A. What would normally be acceptable for a charitable organization.
Q. As determined by you?
A. As determined by its actions.
Q. Under these rules you, as sheriff, would have to make a determination, wouldn't you?
A. Yes, sir.
Q. Okay. Sheriff, if we could, let's fast forward to Section 2 at Page 4.
A. Yes, sir.
Q. The language here appears to have been changed from the initial rules and regulations that you provided or you promulgated, and it suggests for a Class B license.
And it states as follows: No Class B licensee shall be authorized to operate bingo at any qualified location, as defined herein, unless a minimum of fifteen (15) applicants shall first obtain Class B licenses for such

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location. This restriction shall be noted on any Class B license issued effective as of the date of issuance of these first amended and restated rules and regulations.
Who drafted this language?
A. My attorney.
Q. Your attorney?
A. Yes.
Q. And, again, is that Fred Gray, Jr.?
A. Yes, sir.
Q. And as sheriff who is charged with promulgating these rules and did promulgate these amended -- these first amended and restated rules, what was the purpose that you were trying to achieve here?
A. I refer you to the commentary. That was in order to make sure that more -- more nonprofit organizations, viable, active nonprofit organizations, were able to benefit from this and better serve their purposes in Macon County.
And to prevent just an operator having one charity that could have had some

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undesirable consequences as an operator.
Q. What are some of the undesirable consequences that you had in mind?
A. One, as stated in the commentary, would -- could basically serve as simply a front to somebody just operating and -- with one, there was the chance for abuse with just one, one charity, and it would not -- with just one charity the economic benefit is not spread over as many nonprofit organizations and thereby minimizing their positive affect on Macon County.
Q. Sheriff, let me ask you this question. We have established that -- from the documents that were produced, specifically Tuskegee Human & Civil Rights & Multicultural Center, was granted a license by you, Class B, on December 17th, 2003, under your initial rules and regulations right?
A. Yes, sir.
Q. From December to June what information or what events or what incidents triggered your thought that the process was

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being abused?
MR. GRAY, JR.: I'm going to object. That assumes a conclusion that's not in evidence. He hasn't said --
MR. THOMAS: Well, he mentioned it.
Q. Do you know of any incidents, situations or events that occurred from December of '03 to June of '04 that raised concern by you that this process of one license holder could potentially be abused?
A. That was sort of looking -- that was sort of considering future times, and that was considering whatever possibilities that may be out there.
Q. Oh, okay. So, after you passed your first rules on December 5th, '03, you then started looking prospectively about what the future could hold as it relates to this gaming?
A. Yes, sir.
Q. Okay. If you don't mind, what's determinative about 15 charities? Why not five? Why not ten? Why not 25?
A. This was -- that was a number I

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decided on.
Q. You just woke up one morning and 15 hit the head?
A. Uh-huh (affirmative).
Q. You have to answer.
A. Well, this was after careful consideration that that number was considered. It seemed a good number. It --
The number one consideration for that was the more viable, active charities that were doing good things in Macon County, the better. The number was -- was just a number we came up with.
Q. Who is the "we"?
A. Me and my attorney.
Q. And that's Fred Gray, Jr.?
A. Uh-huh (affirmative).
Q. But nothing transpired or happened from December of '03 to June of '04 that you could document that led you to believe that there was some type of abuse or fronting of a charity?
A. My reasons are stated in the

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commentary.
Q. I appreciate that.
A. And that's what I'll --
Q. Again, my question to you was --
MR. GRAY: Let him finish answering, counselor, if you will.
MR. THOMAS: Well, he said --
MR. GRAY: You're asking the second question before he can finish the first one.
MR. GRAY, JR.: And he wasn't quite finished, although it may not have been the answer you were looking for.
MR. THOMAS: I embrace that.
Q. Sheriff, please continue.
A. My answers are stated in the commentary, and they were published with the new rules for everybody to see.
Q. Okay. I didn't intend to cut you off. I just anticipated --
A. That's okay.
Q. -- what you were about to say.
A. That's all right.
Q. But, again, my question to you:

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You can't point to any incident or event that led or would support that this was being abused?
A. No.
Q. None of the charities that had applied to you, based on your investigation that you were required to do under your initial rules, revealed anybody fronting?
A. No.
Q. Got you. Sheriff, did you prepare the commentary to the amended and restated bingo rules?
A. It was a collaboration between me and my attorney.
Q. Okay. And as sheriff, that answer is, yes, you did prepare them?
A. Yes, sir.
Q. Sheriff, if I may, could we go now to Section 4. And that's going to be at Page 5.
A. Yes, sir.
Q. And it's stated in (a) in pretty much the next to the last sentence. And it reads as follows: Should fifteen (15) or more

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Class B bingo license holders contract in a given calendar year with the owner of the Class B qualified location, the owner of said Class B qualified location shall pay a business license fee (operator's license fee) of $250,000 at the time the Class B bingo license is issued or renewed.
That seems to be raised significantly from the operator's license fee that you had initially set forth in your December rules, December '03 rules.
A. Yes, sir.
Q. Why the increase?
A. Again, I will -- it's stated in the commentary, my basic thinking on that.
Q. And that is?
MR. GRAY: Just read it.
THE WITNESS: Oh. The license for a Class B qualified location is hereby increased to $250,000, effective as of January 1, 2005. The license fee increase should provide additional funding for the sheriff's department to support, as well as retain, existing and

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increased law enforcement personnel to regulate and supervise the operation of bingo games in Macon County to preserve and protect the integrity of the bingo games for customers and for the nonprofit organizations.
Q. (By Mr. Thomas) Did any events or situations occur between December '03 and June of '04 which led you to believe that the fee needed to be increased?
And when I say the fee, the operator's license fee. It needed to be increased from $1,000 to $250,000?
MR. GRAY, JR.: Just -- I don't want to interrupt you, but that is not quite factual. It should be from $40,000 to $250,000.
MR. THOMAS: Thank you, lawyer.
Q. Sheriff, as mentioned by counsel, the operator's license fee was increased from from $40,000 to $250,000.
A. Yes, sir. The increased activity, the demands put on the department.
Q. The increased what now?
A. The increased activity and -- the

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increased activity, more people coming. The increased activity, more people coming, more -- we wanted to be ready for any future events that would -- that law enforcement would have to deal with.
Q. From December '03 to June of '04, based on your previous answers in all the other discovery we've gotten in this case, there was only one Class B qualified location during that period?
A. Yes, sir.
Q. And that would be VictoryLand?
A. Yes, sir.
Q. So, isn't it a fact that the only operator's license fee you ever received has been from VictoryLand?
A. Uh-huh (affirmative).
Q. You have to answer out.
A. Yes.
Q. Did you ever have any discussions with Milton McGreggor or any of the other officials at VictoryLand regarding the increase in the operator's license fee?

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A. I talked with my attorney and came up with that figure based on what I felt the future needs and demands would be made on the Macon County Sheriff's Office. And as it says in the commentary, to protect and preserve the integrity of the games for its customers and its nonprofit organizations.
Q. I saw some newspaper clipping where you got -- or was given a check for the $250,000. Is that the sole amount you've gotten from VictoryLand as the operator's license fee?
A. Yes.
Q. Has the $250,000 proven to be doable, the $250,000 doable?
MR. GRAY, JR.: I'm going to just object simply because --
THE WITNESS: What do you mean durable?
MR. GRAY, JR.: Right, right. Go ahead. Because he's got the same question I had, and he's the one who has to answer the question. Go ahead.
MR. THOMAS: Well, he's referenced

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his attorney many times. So, you're free to give him what your thoughts were. I ain't got no problem with it.

MR. GRAY, JR.: What is durable, is what he was --

THE WITNESS: I was asking you what did you mean by durable?

Q. (By Mr. Thomas) Well, I mean, is it sufficient to handle the sheriff's department support and increase in law enforcement personnel and to regulate and supervise the operation of bingo games in Macon County?

MR. GRAY: Was it sufficient at the time the rule was promulgated, or is it sufficient now?

MR. THOMAS: Well, it's both ways.

Q. June of '04, was it sufficient?

A. Only -- that's -- that's sort of hard to answer because things are changing so and --

MR. GRAY, JR.: Listen to the question. He's saying was it sufficient in June of '04.

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MR. THOMAS: In 2004.

THE WITNESS: Oh, yes, it was.

Q. (By Mr. Thomas) Okay. What about -- fast forward to August 15th, 2006. Is it sufficient?

A. That's -- that's something I'm looking at it as we speak.

Q. And to the extent that there were more Class B qualified locations that would be more $250,000 fees?

A. Excuse me. Ask that again.

Q. Okay. To the extent that there are more Class B bingo license holders -- no. I'm sorry.

To the extent that there are more Class B qualified locations, that would mean more $250,000 operator's license fees?

A. To the extent that there are more Class B licenses --

Q. Issued.

A. -- issued.

MR. GRAY, JR: No. You said operator.

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MR. GRAY: You're talking about the operator's license?

THE WITNESS: You're talking about operator's --

MR. THOMAS: Well, no. I'm not -- no, no.

MR. GRAY, JR.: I think you said two -- you asked two different questions. That's what happened.

MR. THOMAS: And that's why -- let's just restructure them, sheriff.

THE WITNESS: Yes, sir.

Q. (By Mr. Thomas) To the extent that other charities under your rules obtain the required what we call a Class B business license or became Class B license holders --

A. Yes, sir.

Q. -- they then would have to have a Class B qualified location, right?

A. Yes, sir.

Q. And that Class B qualified location under your June 2004 rules would have to pay the $250,000 fee?

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A. I'm still not --

Q. Okay.

A. I'm still not hearing what you're saying. Are you saying that there are more Class B operators, Class B qualified locations, or you saying there are more Class B --

Q. Both. I'm saying hypothetically.

A. Oh, hypothetically.

Q. If 15 or more nonprofit organizations obtain the Class B bingo license holder status, right --

A. Yes, sir.

Q. -- they then would have to get a Class B qualified location?

MR. GRAY, JR.: Let me just object to the extent that this hypothetical seems to take into account -- well, it seems not to take into account the second amended rules.

MR. THOMAS: It does not, but -- right now I'm just on the first --

MR. GRASSO: And the question is any other locations?

MR. GRAY, JR.: Go ahead.

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MR. THOMAS: I'm just on the first one, though. I'm just on the first amendment right now. Right?
MR. GRAY, JR.: Go ahead.
MR. THOMAS: That's the one we're on now, the first amendment.
MR. GRAY, JR.: Okay.
Q. (By Mr. Thomas) So, I guess what I'm just saying to you, if you have -- anyone who has a Class B qualified location and is then a Class B bingo operator, they have to pay that $250,000 fee?
A. Yes, sir.
Q. All right. And the more you would have, the more $250,000 fees you would be paid?
A. Yes.
Q. Okay. Now, Section 9(f). And that's going to be at Page 8 under the section called general regulations; prizes. Have you gotten to that page sheriff?
A. Eight?
Q. Yes, eight.
A. Under what?

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Q. It's Section 9.
A. Section 9.
Q. General regulations. And then go down to (f).
A. Yes, sir, I see it.
Q. Do you see here that for the purposes of these rules and regulations, no single prize given by any nonprofit organization, or on its behalf, for the playing of bingo games shall exceed $20 million in cash or equivalent value during any bingo session?
A. Yes, sir.
Q. What was the purpose behind that?
A. Again, I refer to the commentary.
Q. Uh-huh (affirmative).
A. The single prize limitation has been increased to provide greater attraction and marketing of bingo games in order to enhance economic benefits to the charities in Macon County.
Q. What had transpired from December '03 to June of '04 that led you to believe the prize money needed to be increased to $20

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million?
A. As stated in the commentary, you would always wish to do better. With an enhanced prize, a chance for larger prizes would increase -- its attractiveness and its marketability and all of that would enhance the economic benefits to the charities in Macon County and their ability to do more in Macon County.
Q. Now, I recall your testimony that you increased the operator's license fee to $250,000?
A. Yes, sir.
Q. And I think that you attributed that to the fact that you needed more law enforcement personnel because you had seen the crowds get bigger, right?
A. Yes, sir.
Q. So, you had already observed that people were coming?
A. Yes, sir.
Q. So, what would be the need for $20 million in prize money if they're already

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coming?
A. To keep them coming.
Q. Were these things that you had observed? I mean, is this -- was anything reported to you or shared with you that that would be an incentive to keep the people coming?
A. I can -- you know, I visit VictoryLand quite regularly, and I could see the increase in -- the increase in people coming.
And the benefits to Macon County, that's what I'm interested in besides being -- doing a good job and maintaining all of this. But the benefits to Macon county is the bottom line.
Q. As sheriff, how often do you visit VictoryLand?
A. Quite often, numerous times.
Q. Say in a bingo session, a week?
A. A week. I would probably be there a couple or three times a week, something like that.
Q. Do you have discussions with Milton McGreggor?

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A. When I go -- when I visit VictoryLand, normally I'll be walking around talking to employees or stopping by the police department or those type things.
Q. What is your relationship with Milton McGreggor?
A. Business.
Q. And what do you mean by that?
A. He is the owner and proprietor of business -- of this business. I am -- through the normal course of just business. That's how I interact with Milton McGreggor.
Q. You just ran for election and did so successfully. And congratulations.
A. Thank you, sir.
Q. Was Milton McGreggor and VictoryLand one of your supporters?
A. I'm pretty sure they supported me, but I also had to borrow --
MR. GRAY, JR.: Just answer his question.
THE WITNESS: Yes, yes.
Q. (By Mr. Thomas) What was the

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extent of VictoryLand or Milton McGreggor's support of your campaign?
A. I'm not sure.
Q. A guesstimate.
MR. GRAY, JR.: You're just asking how many employees voted for him?
Q. (By Mr. Thomas) No. How much financial support did VictoryLand and/or Milton McGreggor contribute to your campaign?
A. I don't know.
Q. Aren't you required to do reporting to the --
A. I don't --
MR. GRAY, JR.: Just answer that question. Are you required?
Q. (By Mr. Thomas) Aren't you required?
A. Yes, I am.
Q. Do you have those reports?
A. Yes, I do.
Q. Would you have any objection to producing them?
MR. GRAY, JR.: Well, since --

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counselor, those are public documents. You can get them through your regular means.
MS. SALAAM-JONES: That won't stop you from producing them, will it?
MR. THOMAS: That's what I was asking you.
Q. As we're saying, do you have any objection to producing it? It's a question made to you. What your counsel said was a suggestion.
My question to you, do you have any objection to producing them?
A. They're a matter of public record.
Q. Again, just follow me. Do you have any objection to producing them?
A. No.
Q. Okay. And would you produce them to me?
A. As I said, they are a matter of public record. You can get them.
Q. You're getting off track. My question to you, would you have any objections to producing them to me?

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MR. GRAY, JR.: If that is -- if that is a discovery request, then submit the discovery request and then it will be responded to in the usual form.
MR. THOMAS: Okay.
Q. Sheriff, if we could, let's go to Section 15. This is a new section here called compliance with federal law.
A. Uh-huh (affirmative).
Q. I think it is. Let me just double check.
Sheriff, explain to me about the inclusion or the amendment to add compliance with federal law.
A. That was my attorney's there.
Q. That was recommended by your attorney?
A. Yes, sir.
Q. Obviously, this is a public record, but what's your best knowledge about Title 15, United States Code, Section 1172?
A. That deals with the transportation of electronic gaming I believe.

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MR. GRAY: If you need to, you can rephrase it.
THE WITNESS: Oh, 15.
Q. (By Mr. Thomas) Got you. Sheriff – go ahead. I'm sorry.
A. That deals with all electronic, computer, other devices used in connection with the operation of licensed bingo games conducted in Macon County under the authority of Amendment 744 to the Constitution of Alabama and permitted under the rules and regulations for licensing and operating of bingo games promulgated by the sheriff.
Q. Okay. Sheriff, if we could flip back over to Page 4, and I want to call your attention to Section 3 at the bottom of Page 4.
MR. GRAY, JR.: Let me ask this question before you do that, counselor. About how much longer do you have?
MR. THOMAS: Let me finish up with this question.
THE WITNESS: Yes, sir.
MR. THOMAS: Let me finish up with

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this question.
Q. Sheriff, if we could, we're on Section 3. And go over to Page 5.
A. Yes, sir.
Q. And in the next to the last sentence, a license holder may hold only one license, and that license shall be valid for only one location in Macon County.
A. Yes, sir.
Q. Sheriff, if I may call your attention to the fact that that was also a part of your initial rules. This was not a new provision. Okay?
A. Uh-huh (affirmative).
Q. So, I'd just to ask you about -- as I understand this language, a nonprofit Class B license holder can only have one license, right?
A. Yes.
Q. And that one license that was held by that Class B license holder would be dedicated to only one location? It says --
A. Yes, yes.
Q. Okay. So, I couldn't have – I

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couldn't be a license holder in Macon County, a Class B license holder, and be at VictoryLand and at another place called Thomas charity?
A. No, sir.
Q. Okay. Got you. What was the basis for this provision in both your initial and your amended rules and regulations?
A. That was to – that was to make sure that -- I believe the reasoning on that was to make sure that – for the purpose of consistency.
And once – once a license holder was in a location, I think to – just to change -- I think for consistency sake was more than anything.
Q. To illustrate that, your attorneys produced to me 62 licenses that you've issued.
A. Yes, sir.
Q. And all of these licenses, based on my best review of them on their face, are at the qualified location of Macon County Greyhound Park, doing business as VictoryLand?
A. Yes, sir.

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Q. None of these 62 charities can change locations under your rules?
A. Once they contract that becomes a part of their contract, and I don't --
Q. So, all 62 of these –
MR. GRAY, JR.: Hold on. Let him finish his sentence.
MR. THOMAS: I'm sorry for cutting you off.
THE WITNESS: That is a personal contract between them and VictoryLand.
Q. (By Mr. Thomas) Finished?
A. That's it.
Q. Okay. Now, sheriff, again just to clarify my question, all of these licenses where they have their qualified locations at VictoryLand, they cannot transfer or relocate to another location under your rules?
A. Under the – that has to be under the terms of their agreement with VictoryLand.
Q. Well, again, I was asking you about under your rules. You say a license holder --
MR. GRAY: He's telling you that --

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MR. THOMAS: He said -- his rules say a license holder may hold only one license, and that license shall be valid only for one location in Macon County.
MR. GRAY: Yeah.
MR. THOMAS: That has nothing to do with VictoryLand. My question to you --
MR. GRAY: Just that you couldn't have two at the same time.
Q. (By Mr. Thomas) But, again, none of these licenses that have been issued by your office can go any other place other than Greyhound Park?
A. That's the only place there is to play.
MR. THOMAS: Off the record.
(Whereupon, the taking of the deposition was recessed from approximately 12:57 p.m. to approximately 1:33 p.m., after which the following proceedings were had and done:)
MR. THOMAS: Before we adjourned, Fred, I forgot, I would like to move to have Plaintiffs' Exhibit 4, the first amended and

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restated rules and regulations for the licensing and operation of bingo games in Macon County, Alabama made a part of the sheriff's deposition.
MR. GRAY, JR.: No objection. You also referenced the Franklin Volunteer Fire Department's license application -- not application, but license --
MR. THOMAS: Right.
MR. GRAY, JR.: -- for two or three years. Did you intend not to offer that?
MR. THOMAS: Let's go ahead since I I -- to make the transcript complete, why don't you mark this as Plaintiffs' Exhibit 5.
MR. GRAY: That's the last one in -- which one of them?
MR. GRAY, JR.: Franklin Volunteer Fire Department.
MR. GRAY: Okay. Thank you.
MR. GRAY, JR.: Bates number SW53, 54 and 55.
MR. GRAY: And that's 5?
MR. GRAY, JR.: Yes, sir.
MR. GRAY: Okay. Thank you.

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(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 5 to the deposition of David M. Warren.)
MR. THOMAS: If I could, this is going to be six. Sheriff, I'm having this marked as Plaintiffs' Exhibit 6. Sheriff, let me take a moment to make sure I thumb through it and make sure it's clean.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 6 to the deposition of David M. Warren.)
Q. This is Plaintiffs' Exhibit 6. Sheriff, as we've done before, would you take a moment to review Plaintiffs' Exhibit 6, the second amended and restated rules and regulations for the licensing and operation of bingo games in Macon County, Alabama.
A. Yes.
MR. GRAY, JR.: And again, you're just asking him right now to just look to see whether or not this appears to be what it says

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on the front page at the top?
MR. THOMAS: Yes.
Q. Do you understand that, sheriff?
A. Yes.
MR. GRAY: And if you're going to examine him now, I take it on this, sheriff, if you will, look at your commentaries to refresh your recollection and enable you to answer his questions quicker when you answer them. Give him a little time to look at it.
MR. THOMAS: Take as much time as you need.
Q. Sheriff, have a had a chance to look at it?
A. Yes.
Q. Sheriff, before we get into the proposed Plaintiffs' Exhibit 6, I forgot to ask you early on, have you ever given a deposition before?
A. Yes.
Q. And about how many depositions have you given during the course of your career or life?

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A. A few.
Q. Ten or more?
A. I've been doing this for 32 years probably.
Q. But at least about ten depositions you think?
A. Yeah.
MR. GRAY, JR.: Let me ask this question, counselor, before you proceed. I noticed on -- at least on my copy the sheriff's signature is not on Page 12 --
MR. THOMAS: It's not there?
MR. GRAY, JR.: -- the final page. Yes, sir.
MR. THOMAS: And that's what I was about to ask the sheriff, and what I was going to go over -- and I will now.
Q. As you've had a chance, now I'll ask you to go further. Would you look at the second amended and restated rules and regulations --
A. Yes.
Q. -- and you will notice at Page 12

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that the document does not contain your signature?
A. Uh-huh (affirmative).
Q. Do you have any reason, as you have reviewed and I would ask you to review -- have any reasons to question whether or not these are the rules you actually promulgated?
MR. GRAY, JR.: Before he responds to that, let me just state that if counsel does not have a copy of one -- of a set of these second amended and restated rules or you don't have them readily available and accessible, with our motion to dismiss we provided a copy --
MR. THOMAS: That is signed?
MR. GRAY, JR.: -- that is signed. And you're welcome to make a copy --
MR. THOMAS: Be more than happy to.
MR. GRAY, JR.: -- so that we can use that.
MR. THOMAS: If you don't mind -- sheriff, let me do this if you don't mind. This shouldn't take but two minutes, y'all. Is that okay?

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MR. GRAY, JR.: That's fine.
MR. THOMAS: All right. Let me get this copied.
Q. Sheriff, I'm sorry for the little delay --
A. No problem.
Q. -- but based on the well-recommended suggestion of your attorney, we were able to get you a signed copy --
A. Yes, sir.
Q. -- of the second amended and restated rules. And so I would ask you to review this document and direct you specifically to Page 12 and ask if you recognize your signature?
A. Yes, sir.
Q. Now, it's dated January 6, but it says the effective date is January 1st. I think that pretty much speaks for itself.
The effective date of the second amended and restated rules is January 1, 2005?
A. Yes.
Q. Sheriff, again, give or take a

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couple of days, January 1, 2005, is right about maybe six months from June 2nd, the date of your first amended and restated rules.
And so it appears like you're changing the rules or amending them every six months.
My question to you: What was the basis for the second amended and restated rules and regulations for the licensing and operation of bingo games in Macon County?
A. I never knew that bingo was going to become what it became. I just never knew it. You couldn't have ever told me that it would just take off like it did.
And in these rule changes I've tried to address issues before they would come up. And that's basically my reasoning.
Q. Let me ask this. And, again, I would take you to the commentary to the second amended and restated rules.
A. Uh-huh (affirmative).
Q. And let me just -- again, as it relates to the second amended and restated rules

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and regulations that you promulgated, did you draft these rules?

A. No. I -- these rules were a -- well, these rules were the result of work with my attorneys, but they are my rules.

And I relied on him to do the whereas's and the whereto's, but I read everything, I understood everything and they are four all intents and purposes my rules.

Q. And when you makes reference to your attorney, again, that's Fred Gray, Jr.?

A. Yes, sir.

Q. Now, both in the introduction to the regulations and the commentary, there is a -- the last sentence states the primary purpose of this second amendment is to encompass the definition of "bingo games" as pronounced by the Attorney General for the State of Alabama and to further adopt the policy of the Attorney General in limiting the conduct of Class B bingo gaming in Macon County, thereby allowing the sheriff to more effectively regulate and enforce the proper conduct of bingo games.

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Now, I think in -- and I will direct your attention specifically to Section 1, definitions. Under (a) there appears to be a broader definition of bingo games. Do you see that?

A. What page, two?

Q. Page 2. And it's pretty much the second sentence, "the bingo game."

A. Yes.

Q. You want to take a moment or two to review that?

A. (Complies).

MR. GRAY: Do you want to point out to him what was added so he can focus on that?

MR. THOMAS: Yeah. I call myself -- and, Fred, you may want to. It appears to be that part, the bingo game must --

MR. GRAY: Right.

MR. THOMAS: -- incorporate the typical features of traditional bingo, including but not limited to...

MR. GRAY, JR.: Right. Do you want us to highlight it?

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MR. THOMAS: If you're okay, I'm fine.

MR. GRAY, JR.: I'm okay highlighting that because it's quite a bit.

MR. THOMAS: Yeah, it's quite a bit.

MR. GRAY, JR.: And because that first sentence is so long.

MR. GRAY: And it's really four sentences.

MR. THOMAS: Yeah. When you're drafting documents, it gets a little wordy.

MR. GRAY, JR.: Oh, yeah.

MR. THOMAS: We've all been there.

MR. GRAY: Well, I'm trying my best not to have to draft any.

MR. THOMAS: Your legacy lives in.

Q. Sheriff, your attorney has just identified for you the language that I was making reference to.

A. Uh-huh (affirmative).

Q. If you would, take a moment to review that highlighted portion.

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A. Yes, sir.

Q. Sheriff, would you explain to the Court what the amended language was attempting to serve or do?

A. Yes, sir. I refer again to the commentary. I believe -- well, I -- the definition "bingo" or "bingo games" is hereby amended to add four new sentences to be inserted after the first sentence and before the second sentence of the current definition in order to adopt the Attorney General's pronouncement of bingo games that are lawful in the State of Alabama.

The Attorney General had some -- and my explanation, the Attorney General had some very specific things to say about bingo, and I thought that it would be pertinent that his language be added to the rules and regulations.

Q. The language of the Attorney General that you make reference to, is it contained in some separate document, some finding, some conclusion from the Attorney

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general?
A. Yes, sir, it is.
Q. Where is that document?
A. It was a part of his formal report that -- it's pretty much a matter of public knowledge.
Q. Well, you apparently saw it I'm assuming?
A. Yes, sir.
Q. And you reviewed it?
A. Yes, sir.
Q. Do you have a copy of what you saw and reviewed?
A. I saw it at first in a newspaper and pretty much from there.
Q. Let me do this if I may.
A. There was also a report issued.
MR. THOMAS: Yeah. Let me do this. Let me show this to your attorney first. And what I'd like to do is have this marked as Plaintiffs' Exhibit 7.
(Whereupon, said document was marked for identification as

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Plaintiffs' Exhibit No. 7 to the deposition of David M. Warren.)
Q. Sheriff, let me show you what has been marked as Plaintiffs' Exhibit 7.
A. Yes, sir.
Q. This is a release from the -- from Troy King, the Alabama Attorney General, and it is captioned A.G. King Announces Findings of His Gambling Review, and it bears the date of December 1, 2004.
A. Yes, sir.
Q. And it bears the seal of the Office of the Attorney General, State of Alabama?
A. Yes, sir.
Q. And it's also captioned a news release?
A. Uh-huh (affirmative).
Q. And I would ask you if you would review this document and see if it is what you saw or reviewed as a part of your basis for your second amended and restated rules?
A. Yes, sir. Yes, it is.
Q. It is. Okay. Now, I think, as

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this language that you inserted implies, the electronic machines -- and I'm assuming that this relates to the Class B bingo?
A. Yes, sir.
Q. The electronic machines must be linked so that players are competing against each other?
A. Yes.
Q. And I think in this report somewhere the Attorney General states that. Would you look at the second page? And I take you down to Paragraph 2. Do you see that, number two?
A. Yes, sir.
Q. And then the second paragraph from that that starts with "The games played on these video consoles." Do you see that?
MR. THOMAS: Fred, that's the second paragraph below.
THE WITNESS: The second paragraph.
MR. GRAY, JR.: It's really the third one.
MR. THOMAS: The second one. Do

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you see it, Fred?
MR. GRAY, JR.: Oh, yeah. You're picking up in the middle of the sentence.
MR. THOMAS: Yeah. It's -- do you see it?
MR. GRAY: You're starting with number two, "Facilities operating" --
MR. GRAY, JR.: Computer like devices where multiple cards can be played simultaneously, to video consoles where the bingo game is simulated using computer chips.
MR. THOMAS: That one right there (pointing).
MR. GRAY, JR.: Oh, you're down here?
MR. THOMAS: Yeah. Right here. But it's under two now.
MR. GRAY, JR.: Yeah, I know. It's in the third paragraph.
MR. THOMAS: Yeah.
MR. GRAY, JR.: You said the second.
MR. GRAY: Is that the one under

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bingo has evolved, under that sentence in that paragraph?
MR. THOMAS: Yes.
THE WITNESS: Yes, I see it.
MR. GRAY, JR.: Start the sentence again, Ken.
MR. THOMAS: Well, the paragraph starts, "The games played on these video consoles."
MR. GRAY, JR.: Right.
MR. THOMAS: Okay. Then it moves down to, "Second, just as in traditional bingo halls, players on the machines must compete against one another."
Q. Do you see that, sheriff?
A. Yes, sir.
Q. And then it concludes with the sentence, "If the machines at any facility should ever be determined to be operating independently or hosting games for single participants, then these facilities would be operating outside the bounds of the constitutional grant and would be subject to the

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appropriate legal action.
A. Yes, sir.
Q. Okay. So, the effort here was to make sure that these machines competed against each other?
A. Yes, sir.
Q. Now, one of the other changes you made -- and this would be in Section 2. I would direct you to Section 2 on Page 4.
A. Yes, sir.
Q. It states no Class B licensee -- do you see that language? It's probably the second sentence in Section 2.
A. Section 2.
Q. Right there, right above the four on Page 2.
A. Right, right.
Q. No Class B licensee shall be authorized to operate bingo at any qualified location, as defined herein, unless a minimum of fifteen (15) applicants shall first obtain Class B licenses for such location.
On over to Page 5, sheriff.

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A. Uh-huh (affirmative).
Q. This restriction shall be noted on all Class B licenses issued hereafter. At no time shall there be issued and outstanding more than sixty (60) Class B licenses for the operation of bingo in Macon County.
Sheriff, my question to you, what caused you to implement this further requirement for a Class B license?
A. I will refer to the commentary. No one -- I couldn't have ever known how bingo was going to just explode. My department is limited in its manpower and its resources right now.
That, along with the Attorney General's language to add some limits to Class B bingo in Macon County with the number of people playing, the number of -- just the shear number of people that were participating in this activity, the demands that it puts on my limited resources that are available right now.
That was more so my thinking in enacting this -- these changes -- this particular change.

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Q. But, sheriff, if I recall -- I'll ask you to return to A.G. King's announcement of his findings on gambling review.
A. Yes.
Q. I've reviewed this particular document thoroughly, and I don't see any language that would suggests that Attorney General Troy King was saying there had to be any limitation.
I think he basically stated that in the electronic bingo, as you stated in your rules, the electronic bingo machines must compete against one another.
A. Yes.
Q. And then, if I could, let me just return to the Attorney General's statement at Page 3. The page is at the top.
A. Page 3.
Q. And you see this first full paragraph?
A. Uh-huh (affirmative).
Q. Attorney General King's conclusion is that as a matter of law, machines that

operate in the manner described under the broad language of Amendment 744 relating to Macon County is legal.
A. Uh-huh (affirmative).
Q. Isn't it?
A. Yes.
Q. I saw nowhere in this report -- and that's why I'm asking you is this the report you looked at -- that would say that you had to limit the number of machines.
MR. GRAY, JR.: You're just asking is this the report he looked at?
MR. THOMAS: Yeah. Well, that's one question. And I think he's already said he looked at this report.
MR. GRAY, JR.: Right.
MR. THOMAS: All right. And I'm saying in his language and his commentary he says that he's following the policy of the Attorney General in limiting the conduct of Class B bingo gaming in Macon County.
THE WITNESS: The --
MR. GRAY, JR.: He hasn't asked you

a question.
THE WITNESS: Oh, okay.
Q. (By Mr. Thomas) Well, let's go to your preamble, sheriff, your introduction here. You state very clearly in the last sentence, "to further adopt the policy of the Attorney General in limiting the conduct of Class B bingo gaming in Macon County," right?
A. Uh-huh (affirmative).
Q. And my question to you, what policy of the Attorney General suggests to you that he wanted to limit the conduct of Class B bingo gaming in Macon County?
A. I looked at this first page. I know those are the Attorney General's personal feelings, but those -- that alone was not my sole reason for doing this.
As I said, no one -- I surely couldn't have ever known that bingo would just explode into what it was, what it is now.
As it stands right now in its present time, my department has to sort of catch up with the progress that is made in gaming and

bingo in Macon County. My department is challenged quite a bit just to deal with the everyday law enforcement issues as they arise in Macon County. And to -- and to allow my -- my office to sort of get in step with what's going on there, I felt it necessary to limit charities at this point in time. That's --
Q. I don't want to cut you off. Are you finished?
A. That's it.
Q. Go to Page 13. That's a part of your commentary.
A. Yes, sir.
Q. And if I may just interject this, who prepared the second restated rules?
A. They were a collaboration between me and my attorney as always.
Q. So, you and your attorney wrote the commentary, also, right?
A. Yes.
Q. And when you look at Section 2, you state very clearly that a new sentence has been added to the end of Section 2 to limit the

number of Class B licenses that may be issued in order to follow the policy of the Attorney General to limit Class B bingo gaming activities in Macon County, Alabama --
A. Yes.
Q. -- and to allow the sheriff to more effectively regulate and enforce the proper conduct of such bingo games.
Now, do you agree with me that nowhere in the Attorney General's report does he articulate any limitation on the number of Class B licenses in Macon County?
A. The Attorney General may not have articulated that, but being the sheriff of Macon County and the person responsible for regulating and dealing with this issue, again, I -- this -- this -- my department, the sheriff's office, needs to catch up with the progress that is made in bingo at this time in Macon County.
Q. Are you finished?
A. Yes, sir.
Q. So, for accuracy purposes now, those references in these bingo regulations that

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make reference to some type of limitation by the Attorney General of Class B bingo gaming in Macon County is inaccurate?
MR. GRAY, JR.: No. That's not --
THE WITNESS: I wouldn't --
MR. GRAY, JR.: Okay.
MR. THOMAS: Well, again, show me the language. Show me anything from the Attorney General that says that Class B bingo gaming in Macon County should be limited.
MR. GRAY: I think he admitted to you that that's not in the language.
MR. THOMAS: Okay.
MR. GRAY: But there certainly are inferences all over it about there --
Q. (By Mr. Thomas) I understand. But, again, to say that the Attorney General has limited the number of Class B bingo licenses in Macon County or has a desire to do so is inaccurate?
A. Not entirely inaccurate.
Q. Well, he hasn't -- well, show me where he said that or he has done something to

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infer that.
A. Again, as I said, at this point in time in Macon County with gaming -- with the bingo activity being what it is and my limited resources to adequately regulate and deal with this subject as a whole, I felt it necessary to enact -- to make those changes.
Q. I think you've answered my question -- and it's been confirmed by your attorney -- that the Attorney General has not limited the number of --
A. No.
Q. Okay.
A. No.
Q. Good. At no time shall there be be outstanding more than sixty (60) Class B licenses for the operation of bingo in Macon County. All right.
A. Uh-huh (affirmative).
Q. And that has been the law since January 6th, 2005?
A. Yes, sir.
Q. Now, I was produced through your

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attorneys documents that reflect on their heading 2006 Class B bingo licenses.
A. Yes, sir.
Q. I counted 62.
A. There are --
MR. GRAY, JR.: No, no. He didn't ask you a question.
THE WITNESS: Oh, okay.
MR. GRAY, JR.: He counted 62.
Q. (By Mr. Thomas) I counted 62 in the production.
A. Yes, sir.
Q. In fact, is there currently for 2006, 62 Class B bingo licenses?
A. No, sir.
Q. Could you explain to me of these 62 that I've counted the two that are not active.
A. I probably --
Q. Do you need to look at them?
A. Yes.
Q. Okay. I know I counted 62. Sheriff, I think that this is going to complete the licenses that your attorney has provided to

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me.
A. Yes, sir. South Macon is one, and Washington Public School should be the other. I'm just trying to get to it in here. That one is no longer a charity. That school was closed.
Q. Excuse me for a second. You're saying this one?
MR. GRAY, JR.: Yes. South Macon Elementary?
THE WITNESS: Yes, sir. South Macon School was closed and -- bear with me here.
MR. GRAY, JR.: You can tell him the other one, even while you're --
THE WITNESS: And Washington Public School was also closed.
MR. THOMAS: Got you.
THE WITNESS: Those were the two that were -- let me -- it's probably in here if you counted 62. If you counted 62, that was one.
Q. (By Mr. Thomas) South Macon Elementary School?

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A. South Macon School was closed.
Q. And?
A. And Washington Public School was closed.
Q. Got you.
MR. GRAY, JR.: Do you still need it because he's answered your question.
THE WITNESS: If you have them in here. Wait a minute. If you're counting 62, you're probably counting Washington Public and South Macon.
MR. GRAY: He's got it, sheriff.
Q. (By Mr. Thomas) So, sheriff, I think your attorney has --
A. Yeah. Here it is, Washington Public Elementary School.
Q. If I may, just following your examination of the certificates that were produced, the 2006 Class B bingo licenses that were produced, you have stated to me that the one for Washington Public Elementary School and for South Macon Elementary School are no longer in force and effect?

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A. Yes, sir.
Q. And would you explain why they're no longer in effect?
A. The schools closed.
Q. Now, based on the production of the licenses by your attorneys and your re-examination of the licenses, at this time there are only 60 Class B licenses for the operation of bingo in Macon County?
A. Yes, sir.
Q. I guess my question now -- at no time shall there be issued and outstanding more than sixty (60) Class B licenses for the operation of bingo in Macon County.
Would you state for me, sheriff, what you or what your office does to ensure that there are not more than 60 Class B licenses at any one time in Macon County?
A. Once there are 60 if none leave, we don't issue anymore.
Q. So, hypothetically, if ABC nonprofit charity, along with 15 other charities, made application for a Class B bingo

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license in Macon County, it could not be granted at this time?
A. At this time.
Q. Based on your rules?
A. Yes.
Q. And in essence -- and, also, I want to make sure this is clear.
All 60 Class B licenses that your office has issued are operating at the license location of Macon County Greyhound Park, doing business as VictoryLand?
A. Right now.
Q. So, VictoryLand at this time has all of the charities for the licenses that you've issued?
A. Yes, sir.
Q. And if anybody else at this time wanted to get a Class B license, it could not do so?
A. Not at this time.
Q. Got you. Based on what you had described, what does the limitation of 60 Class B licenses being issued at any one time do to

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serve those purposes?
I think I understood you to testify that your office could only handle what it's handling now. I'm assuming, in essence, that's what you said.
Well, let me do this then, sheriff, since you look like you're a little puzzled.
Again, would you articulate to me the reason for the limitation of 60 Class B licenses?
A. The Class B licenses, the limit on Class B licenses, at this point in time would limit bingo activity to -- would limit bingo activity in Macon County to a level that we can deal with right now.
Q. Are there any other considerations in support of your limitation of only 60 Class B licenses for the operation of bingo in Macon County being implemented?
MR. GRAY, JR.: Other than what he's already articulated?
MR. THOMAS: Yes. And what I have is that it limits bingo activity to a level that

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we can deal with right now.
MR. GRAY, JR.: And he's saying in furtherance of the Attorney General's statements. Or policy may have been what he said.
MR. GRAY: And I think he also in referring to the Attorney General implied, as he understood there, that there was some indication, even though he didn't specifically say a limit. But that was his interpretation of it.
Q. (By Mr. Thomas) Okay. So, we got his interpretation of what Attorney General King did not say and to limit bingo activity to a level that he -- well, we can deal with right now.
Are those your two considerations?
A. More than the Attorney General's language, is considering the demands put on the Macon County sheriff's department right now.
Q. That's part and parcel of being at a level that we can deal with right now.
A. Yes, sir.

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Q. So, they're one and of the same?
A. Yes.
Q. So, again, your interpretation of what the Attorney General said is one consideration for the limitation?
A. Yes, sir.
Q. And the second limitation is your belief that limiting the bingo activity to this standard reduces it to a level that you can deal with right now? These are the two?
A. At this time.
Q. Now, are there anymore?
A. No.
Q. Okay. So, those are the two.
Now, in effect, what you have done through this limitation is limited bingo, Class B bingo, to an operation at only one location.
A. At present --
MR. GRAY, JR.: No. He hasn't asked a question. He's telling you something apparently.
THE WITNESS: Yes.
Q. (By Mr. Thomas) And that one

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qualified location is VictoryLand?
A. Yes.
Q. Now, from each license that you issue you get -- well, I'm sorry. For each Class B license that you issue, as I understand, there is a fee paid of a $1,000, isn't it?
A. Yes.
Q. So, if you issued more licenses, you get more thousand dollars?
A. Yes.
Q. And revenue can help raise your staff to a level that you could deal with it, right?
A. Exactly.
Q. So, why not issue more licenses?
A. Because at this point in time we are dealing with what we can reasonably deal with right now.
Q. Why 60? Why not 55?
A. Sixty just happened to be the number we settled on.
Q. Did you come up with the number of 60?

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A. Pretty much.
Q. Did anybody else suggest 70?
A. There were some other entities who wanted to participate in bingo, but at this time you are going to have to put -- with our ability to respond and to deal with this -- this situation, we had to put a limit somewhere.
Q. Why don't you state for me specifically what actions your office takes to regulate licenses.
A. We do all the investigative stuff, the background, the backgrounds, all of the investigations. We maintain all the records. We maintain patrols at VictoryLand, three shifts. If there is any criminal -- if anything happens at VictoryLand of a criminal nature, we pretty much deal with that.
Q. Let me see if I can follow this. As you and I have just gone over, there are currently outstanding 60 licenses for Class B licenses, right?
A. Uh-huh (affirmative).
Q. Times $1,000 per --

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A. License.
Q. -- license. That's $60,000?
A. Yes.
Q. The location fee for the qualified location as you described is $250,000?
A. Uh-huh (affirmative).
Q. So, that's --
A. Yes.
Q. Just roughly speaking, that's $310,000 a year?
A. Uh-huh (affirmative).
Q. And it's your testimony that that is insufficient to regulate Class B licensing, $310,000?
A. You're looking at only the bingo part of it. We run a 24 hour a day, 365 days a year, 7,614 square mile sheriff's office.
Q. And when you say "we," who are you making reference to?
A. The Macon County Sheriff's Office.
Q. Currently, what's the number of your staff, officers, support staff, what have you? How many people do you employ?

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A. Thirty-six. That's staff.
Q. Okay. How many law enforcement officers?
A. About 15.
Q. So, that's a total staff of about 50 or 51 people?
A. No.
Q. What's your total staff?
A. That 15 makes up the 30.
MR. GRAY, JR.: That's inclusive.
Q. (By Mr. Thomas) So, your sheriff's department is 30 to 36 people?
A. Uh-huh (affirmative).
Q. You get revenues from the Macon County Commission, don't you?
A. If you call it that.
Q. Are you saying that the --
A. Yes. We --
Q. -- revenues from bingo licensing is the only revenues you-all receive?
A. No, no. We get revenues from the Macon County Commissiion.
Q. For fiscal year, whatever we're in,

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October -- do you use October 1 to September 30th?
A. Yes.
Q. So, from October 1, 2005, to September 30th, 2006, what's your budget approximately?
A. Approximately $800,000.
Q. And is this $310,000 that I have summarily identified a part of the $800,000?
A. No.
Q. So, if you factor in the $310,000, that means your budget for this year would be about $1.1 million?
A. If you factor in the bingo, maybe. I don't have the figures here in front of me, but maybe.
Q. But you do a budget every year, don't you?
A. Yes.
Q. And you've been doing one since '95?
A. Yes.
Q. So, you've pretty much got a feel

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for how much money you spend a year, don't you?
A. Pretty much.
Q. You are the sheriff?
A. Yes.
Q. Now, then, if we could, sheriff, let's go to Section 4. And it states at the last sentence -- well, Section 4, according to your commentary, the second sentence has been revised to allow licenses to be issued for five (5) years.
A. Uh-huh (affirmative).
Q. So, is it a fair assessment that all of the current licenses that you've issued for 2006, Class B, they pretty much, based on the face of them, will run for five years?
A. Yes.
Q. And ostensibly that means no more charities can get a Class B license until after 2011 or thereabouts, all things being equal?
A. You know, at any time any of those license holders can decide to go their way. Now, that would not affect -- that would not affect whatever arrangements they've had with

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VictoryLand, but they can decide to go with whomever. And so those are not hard and fast numbers to us.
Q. After your review of what was produced, we came up with 60 outstanding licenses for 2006, Class B, right?
A. Yes.
Q. And under the current rules they are good for five years?
A. Yes.
Q. They can be renewed annually, and they have to pay the annual fee of $1,000?
A. Yes.
Q. But unless 15 of the 60 fall out, fold or otherwise dissolve, you still have to have 15 nonprofit organizations in order to get a license?
A. Yes.
Q. So, between now, 2006, and 2011 what's the likelihood of 15 of these licenses not being renewed?
A. I have no idea.
Q. And if for some reason a total of

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15 should not dissolve or otherwise go away, no other nonprofit organization could combine with another 14 in order to get 15 to get a license to operate?
A. Theoretically.
Q. Not theoretically. That's your rule.
Because I am correct when you say in your rule that unless a minimum of 15 applicants -- and when you say "applicants," that would be nonprofit organizations --
A. Organizations.
Q. -- right?
A. Uh-huh (affirmative).
Q. Shall obtain Class B licenses for such locations -- for such a location. You can't get the Class B license, right?
A. Right.
Q. All 60 right now, currently as issued, are committed to one qualified location?
A. Yes.
Q. And no other nonprofit corporation can even be postured to get a Class B license in

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Macon County unless 15 of these dissolve?
A. At this time.
Q. Now, let's talk about renewal. When these licenses come up for renewal in five years, are you obligated to renew them?
A. Explain that.
Q. Well, just simple. When Washington -- let me pick out one for you. When the Tuskegee Human & Civil Rights & Multicultural Center comes up for renewal in 2011, would you state to the Court whether or not you'll renew it?
A. Yes.
Q. You will renew it?
A. Yes.
Q. Okay. And wouldn't the same hold true for the other 59?
A. Yes.
Q. Okay. So -- I got you. Sheriff, as a matter of fact, these 60 existing Class B licenses in, ain't they?
A. It's what?
Q. I mean, they're in?

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A. Yes.
Q. And they're going to be the only ones running Class B bingo gaming in Macon County for the next five years? Pretty much, right?
A. I'm saying at this time.
Q. Yeah. And at VictoryLand?
A. Uh-huh (affirmative).
Q. Okay. Sheriff, do you think that's fair?
A. Whether I think it's fair or not, the reality of it -- of this situation is what I -- what I articulated it to be in my opinion. I -- and that's it.
MR. THOMAS: Fred, I'd like to move for Plaintiffs' Exhibits 6 and 7 to be made a part of the sheriff's deposition.
MR. GRAY, JR.: No objection.
Q. (By Mr. Thomas) Okay. Sheriff, if I may, let me get to -- sheriff, do you have any knowledge of the length of the relationships or the contracts that the nonprofit organizations that have Class B licenses have with

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VictoryLand?
A. Yes.
Q. And how are you aware of it?
A. It's pretty much general knowledge.
Q. It's what knowledge?
A. Pretty much general knowledge.
Q. But as sheriff you a have a right to know that information?
A. Yes.
Q. And you have exercised that right?
A. Yes.
Q. And what has been your finding from your most recent investigation about those contracts between VictoryLand and those license holders as far as the length of their relationships?
A. For 20 years I believe.
Q. Twenty years?
A. Yes.
Q. So, is it a fair statement that the 60 licenses that we have identified here today are committed to VictoryLand for 20 something years?

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A. You can assume that at this time.
MR. THOMAS: Fred, if I could -- and I don't -- I think you've already looked at them. You produced them. I'd like to have this marked as an exhibit.
MR. GRAY, JR.: When you say "this," you're --
MR. THOMAS: All of these.
MR. GRAY, JR.: -- referring to all the licenses that we produced in response to your request?
MR. THOMAS: Yeah. And I was going to say that is going to contain all of the 62, but further explained by the sheriff in the taking out of the other two.
MR. GRAY, JR.: Okay. Just the licenses, though?
MR. THOMAS: Yeah. Just --
MR. GRAY, JR.: That's not all of what I produced to you, is what I'm saying.
MR. THOMAS: No, it's not. You produced the applications, too --
MR. GRAY, JR.: All right.

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MR. THOMAS: -- but right now it's just the licenses.
MR. GRAY, JR.: Okay. So, that's going to be composite --
MR. THOMAS: Eight.
MR. GRAY, JR.: -- eight.
(Whereupon, said document was marked for identification as Plaintiff's Exhibit No. 8 to the deposition of David M. Warren.)
Q. (By Mr. Thomas) Sheriff, if you would, would you look at what has been marked as Plaintiffs' Exhibit 8. And I represent to you those are the licenses, Class B licenses, for 2003, 2004, 2005 and 2006 that have Class B licenses for bingo in Macon County.
A. Yes.
MR. GRAY: And those are all of the ones that we submitted to you?
MR. THOMAS: That you produced to us.
Q. And it's 62 of them. But, sheriff, it's further explained that two have since

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dissolved or are not in business?
A. Are not in business.
MR. THOMAS: Okay. Are no longer license holders. Fred, I move to make that a part of his deposition.
MR. GRAY, JR.: To the extent that that's exactly what we gave you --
MR. THOMAS: Yes.
MR. GRAY: Plaintiffs' 8.
MR. GRAY, JR.: -- as you have represented, then no objection.
Q. (By Mr. Thomas) Sheriff, just as a follow-up, when did the two we identified -- I think it was Washington Public Elementary School and South Macon Elementary School -- cease to be license holders?
A. I'd have to check the records. On the date of their closure I'm sure, on or around the dates of their closures.
Q. Are the schools closed now?
A. Yes.
Q. As sheriff of the county, do you have any idea when they closed? School is

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currently -- well, I'm sorry. This is a new school year.
A. Yes.
Q. May?
MR. GRAY, JR.: Just do you know? If you know, tell him. If you don't --
THE WITNESS: I don't know exactly.
Q. (By Mr. Thomas) Okay. Sheriff, would it be a correct statement that those licenses have been suspended, revoked -- what's the word you -- what phrase do you put on licenses when they're no longer being held?
A. They -- both of these are inactive at this time.
Q. So, the date that these licenses became inactive?
A. Yes.
Q. Sheriff, now, if I may, let me ask you, do you know Frank Thomas?
A. Yes.
Q. How do you know Frank Thomas?
A. I bought some land from Mr. Thomas.
Q. When?

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A. A few years ago.
Q. And what was the nature of the transaction, for investment, home, what?
A. I eventually built a home on it.
Q. Okay. Let me show you -- do you know Mr. Thomas from any other interaction?
A. Yes.
Q. And would you describe that to the Court?
A. Mr. Thomas applied for a bingo license.
Q. And, sheriff, I think properly that would be a Class B bingo license?
A. Mr. Thomas made a joint application with another charitable organization.
Q. By the name of Reach One, Teach One?
A. Yes.
Q. And that organization, one of its representatives is Reverend Walter Walker?
A. Yes.
Q. Do you know him?
A. Yes.

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Q. Are you familiar with Mr. Thomas' organization of Macon County Investments?
A. Yes.
Q. And you're familiar with Reverend Walker's Reach One, Teach One organization?
A. Yes.
MR. THOMAS: Fred, if you don't mind, some of this is -- that what you have there is somewhat of a scaled-down version of this. Okay?
MR. GRAY, JR.: Uh-huh (affirmative).
MR. THOMAS: So, what I was going to do -- I have condensed this to that, but I was going to leave this for the sheriff's visual inspection if he wanted to, just to make sure.
MR. GRAY, JR.: All right.
MR. THOMAS: Belinda, would you mark this?
MR. GRAY, JR.: Now, what you have just given the court reporter is what I have?
MR. THOMAS: Yes.
MR. GRAY, JR.: Okay. And for what

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you have in your hand is --
MR. THOMAS: The actual document, a copy of the document that was submitted.
MR. GRAY, JR.: Okay.
MR. THOMAS: But like these things here are larger. They've just been condensed.
MR. GRAY, JR.: And you're saying all of this was submitted, too?
MR. GRAY: Why don't we do this. Why don't you let us see what's submitted. Then we can go over it with him. We can take a break and do that.
MR. THOMAS: I don't have any problem with that.
Q. Sheriff, if I may, let me produce for you what will be Plaintiffs' Exhibit 9, and I also have available for you the attachments, which have been condensed from that but are here in their actual sizes if you need to look at those.
A. Yes.
MR. GRAY: And what this purports to be is a copy of the applications that Mr.

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Thomas left with the sheriff or left at the sheriff's office?
MR. THOMAS: Yes. Along with the various attachments.
MR. GRAY: And it is that application that we're here involved on?
MR. THOMAS: Yes.
MR. GRAY: Okay. So, what we really need to do is take a break and look at all of this stuff because we have not seen what you are giving us until now.
MR. THOMAS: Okay.
MR. GRAY: Now, that goes with this?
MR. THOMAS: Yeah. That is -- well, let me just say it this way.
The application is a complete copy. Okay. The attachments have been condensed, but those are the full-blown attachments there. That's all we're saying.
MR. GRAY: And all of these purportedly were delivered to the sheriff along with this?

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MR. THOMAS: Yes. Well, it's the same thing. Let me say this. This is what was delivered. Okay?
MR. GRAY: Yeah. That's what I'm saying.
MR. THOMAS: But for the convenience of everybody, we just scaled down the maps. That's all.
MR. GRAY: Yeah. Why don't you give us a little time to go and look at this and compare it with that.
MR. THOMAS: Now, let me clarify this. The top sheet is what was given to Mr. Thomas acknowledging the submission of it. That's what's on the top sheet.
MR. GRAY: Okay. Let's take a break.
MR. THOMAS: Fine.
(Whereupon, the taking of the deposition was recessed from approximately 2:48 p.m., to approximately 3:19 p.m., after which the following proceedings were had and done:)
Q. Sheriff, let me ask you, just

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following up on some of the questions before we adjourned a moment ago to look at some potential documents for the exhibits.
If any of the existing 60 charities should no longer become Class B license holders -- okay -- can another charity take its place?
A. Yes.
Q. Isn't it a fact that if that charity took that place, they could only do business at the qualified location of VictoryLand?
A. Yes.
Q. So, any charity that replaces any charity for the next five years would have to operate its Class B bingo gaming at VictoryLand?
A. At this time.
Q. Okay. Now, sheriff, do you have any records maintained in your office that would show the gross revenues of the charities for 2004, 2005 and as of this date in 2006?
A. No.
Q. Who would have those records?
A. Individually the charities should

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have -- and, of course, VictoryLand.
Q. Okay. So, of these 60 active 2006 Class B bingo licenses, these 60 have some records. Are they required under your rules to keep records of their gross revenues?
A. Yes.
Q. Is VictoryLand, as a qualified location, required to keep records of what it has paid to its charities?
A. Yes.
Q. And as I understood your earlier testimony, none of that information is recorded in your office?
A. No.
Q. Now, let me show you what I'd like to have marked now as Plaintiffs' Exhibit 10.
MR. GRAY: What was nine?
MR. THOMAS: Hold on a second. Let's make this nine.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 9 to the deposition of David M. Warren.)

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Q. Sheriff, you don't have any records or any recordation in your office of any monies that VictoryLand, as a qualified location, has received for 2004, 2005 and 2006?
A. (Indicating)?
Q. Do you have in your records as sheriff any records containing information of what VictoryLand, as a qualified location, has received as revenues from Class B bingo gaming for the years 2004, 2005, 2006?
A. No.
Q. They're not required to supply that information to you?
A. No.
Q. Do you have any knowledge of what receipts VictoryLand may have received or earned for 2004, 2005, 2006?
A. No.
Q. Now, let me show you what has been marked as Plaintiffs' Exhibit No. 9, and I'll ask you to review that document and let me know if you can identify it?
MR. GRAY: Now, that's the --

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purports to be the application?
MR. THOMAS: Yes.
THE WITNESS: Yes.
Q. (By Mr. Thomas) And it purports to be the application of Reach One, Teach One for a Class B license; is that correct?
A. Yes.
Q. And also attached to that is information regarding the person or entity who will directly operate or promote bingo games for the applicant organization?
A. Uh-huh (affirmative).
Q. And that's Frank Thomas and the principals of Macon County Investments; is that correct?
A. Yes.
Q. And all of those are on forms that have been prescribed by you; is that correct, as sheriff?
MR. GRAY: Just a moment. I would want the sheriff to take a look at your application form that you supplied and then compare this with that so you can determine

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whether or not it is just like those forms are.
THE WITNESS: This seems to be different from the first one we got.
MR. GRAY: All right. Let's --
MR. THOMAS: What are y'all showing him?
THE WITNESS: This is different from this one.
MR. THOMAS: It's from mine? What form are you-all showing him?
MR. GRAY: I think you had a copy in that material over there.
THE WITNESS: But this is different from that.
MR. GRAY: But it was not submitted with the application that -- I understand, but that is the form. And you had one in your materials, too. It tells about instructions, and that's the application that is supposed to follow.
Okay. You look at that and compare that with each page on that and see whether or not they correspond.

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MR. THOMAS: My client submitted to me they just simply retyped the information to make it better fit for the information they were providing.
MR. GRAY: Well, if that's true -- that may be true on the first page, but I think -- and I thought what you were having him to do was to go through it to compare it and see if it complied with the rules.
And I just want him to have a copy of his application, and then he can look at each page and see what it does.
Q. (By Mr. Thomas) Well, sheriff, my question to you, as I stated before, this is the packet of information that is -- this is the packet of information that was submitted by Reach One, Teach One and MCI; is that correct?
A. (No verbal response).
Q. The document that you're looking to and --
A. Yes.
Q. -- that you've just described for me contains information that was submitted by

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Reach One, Teach One of America, Inc., right?
A. Uh-huh (affirmative). Yes.
Q. And on behalf of Macon County Investments as the entity or persons who were to operate or promote the bingo games; is that correct?
A. Yes.
Q. And after your examination of the information provided, does it provide the necessary information that you sought for applications?
MR. GRAY, JR.: Now, here is the information that you sought for applications (pointing).
MR. GRAY: You have to go through each one of the pages. And that's the first one, which deals with personal data on the applicant and that's the --
THE WITNESS: That's different.
Q. (By Mr. Thomas) But is the information there? Is the information there that you would need?
A. Yes.

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Q. Okay. Now, are you interested in -- you basically are requesting information, aren't you?
A. Yes.
Q. So, I guess -- is there any objection to the information that was provided to you?
MR. GRAY: Do you mean are there any objections to the way the information is set out?
MR. THOMAS: Yes.
MR. GRAY: As compared to how he has suggested that they set it out in the application?
MR. THOMAS: Well, my question -- well, let me ask him just a basic question.
Q. Is there anything in the information that was submitted to you that was not acceptable?
A. Other than the order of it.
Q. Sheriff, if I may, you were provided a contents of the bingo application; am I correct?

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A. Right, right.
Q. Clearly delineated under 1 through 18 is a listing of all information that was submitted; am I correct?
A. Yes.
Q. The information -- oh, I'm sorry. Continued on to the second page, they talked about 19, right?
A. Yes.
Q. Do you have any objection to having a listing under a table of information so that you can readily assess it?
A. No, I don't.
Q. Okay. Then as it relates to the application of Reach One, Teach One, the information that's provided here, is there anything that's provided to you that is objectionable?
A. No.
Q. As it related to the information that's provided on behalf of MCI, Frank Thomas and other principals or persons or entities who will directly operate and promote bingo gaming

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for the applicant organization, is there any information provided here that's objectionable to you?
A. No.
Q. All information has been properly notarized; am I correct?
MR. GRAY, JR.: Well, you're on one page of it.
Q. (By Mr. Thomas) Well, I mean, it's a notary statement there, isn't it?
A. Uh-huh (affirmative).
Q. And there's a consent for the background check, right?
A. Uh-huh (affirmative).
Q. You wanted that information, didn't you?
A. (No verbal response).
Q. I mean, people who applied had to consent to background checks, right?
A. Yes.
Q. They are consenting to that; am I correct?
A. Yes.

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Q. Personal data is provided to you, right?
A. Yeah.
Q. Well, let me say this if I may. That application is a lot more thorough than this one page you received from other companies; am I correct?
A. Those applications are different from these. None of these were joint applications.
Q. I understand. Well, let me say this just to show you. The application here for a bingo license that's submitted by Washington Public Elementary School and the attachment to it, surely you're not saying what was submitted by Reach One, Teach One was any less than that, are you?
A. No.
Q. Okay. In fact, that application there was a lot more detailed and informational than what you had been receiving? Yes?
A. That was what we asked for.
Q. But, again, what was submitted to

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you by Reach One, Teach One and Macon County Investments was detailed information?
A. It was detailed information.
Q. And was acceptable to you?
A. The information itself, yes.
Q. Okay. Now, if I may --
MR. THOMAS: Would you mark this as -- hold on a second. And this is with the understanding that we'll supplement copies on this.
MR. GRAY, JR.: Did you ever get nine marked?
MR. THOMAS: That's it right there.
MR. GRAY, JR.: Okay.
MR. GRASSO: Nine is the application.
MR. THOMAS: Mark that as ten.
MR. GRAY: What is that?
MR. THOMAS: These are going to be the survey and I think the design --
MR. GRAY: Why don't we do them separately.
MR. THOMAS: I did it separately.

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MR. GRAY: Okay. Ten is what?
MR. THOMAS: Now, hold on a second. I was doing it as composite survey and -- oh, you want to do them separately?
MR. GRAY, JR.: Let's do them separately.
MR. THOMAS: Okay. Exhibit 10(A).
MR. GRAY: 10(A) is what?
MR. THOMAS: 10(A) is going to be Proposed Entertainment Complex for Macon County Investments, Inc. That's 10(A).
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 10(A) to the deposition of David M. Warren.)
MR. THOMAS: And 10(B) is the boundary survey.
MR. GRAY: That's the boundary survey and the land upon which the proposed structure is to be built?
MR. THOMAS: Yes.
MR. GRAY: And that's the same land that is referred to on Page 1 of the

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application?
MR. THOMAS: Yes.
MR. GRAY: Can y'all stipulate that the structure has not in fact been built, no structure -- well, no structure was built at the time of the application?
MR. THOMAS: No structure was built.
MR. GRAY: All right.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 10(B) to the deposition of David M. Warren.)
Q. (By Mr. Thomas) Now, sheriff, I would like to show you what has been marked as Plaintiffs' Exhibits 10(A) and 10(B), and I would ask you did you receive those two -- did you review those documents at the time you reviewed the application submitted by Reach One, Teach One and MCI?
A. Yes.
Q. Sheriff, to your best recollection, when do you recall reviewing what has been

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marked as Plaintiffs' Exhibits 9, 10(A) and 10(B)?
A. Probably around July 25th or thereabouts.
Q. Of what year, sheriff?
A. 2005.
MR. THOMAS: Let me have this marked as Plaintiffs' Exhibit 10(C).
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 10(C) to the deposition of David M. Warren.)
Q. Sheriff, would you describe for me the circumstances under which you first reviewed what has been marked as Plaintiffs' Exhibit 9, Plaintiffs' Exhibit 10(A) and Plaintiffs' Exhibit 10(B)?
A. I'm not exactly sure when this came in because, as I understand, it was given to one of our radio operators. But once I got -- I was not in town on that day. After I got back in later -- well, I got back in later that evening. They told me that it was there. I told them to

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put it in my office.
We normally receive our applications through our business office. I reviewed it around the -- on the -- I believe it was on a Monday to the best of my recollection.
Q. But based on your earlier testimony, this would have been on or about July 25, '06, in that area?
MR. GLASSO: '05.
Q. (By Mr. Thomas) '05. I'm sorry. '05?
A. Yes.
MR. THOMAS: If I may, I'd like to offer Plaintiffs' Exhibits 9, 10(A) and 10(B), which is down there.
MR. GRAY, JR.: No objection.
Q. (By Mr. Thomas) Sheriff, let me see if we can -- we're in July, somewhere around July 25, '05. Okay?
A. Uh-huh (affirmative).
Q. Do you know a Joe Turnam?
A. Uh-huh (affirmative).
Q. You have to answer.

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A. Yes.
Q. And what's your knowledge of Joe Turnam?
A. He's a person that -- he's a -- Joe is the chairman of the democratic party.
Q. A lobbyist, too, isn't he?
A. I would -- I guess so.
Q. A contact person, quote, unquote?
MR. GRAY: Well, now, sheriff, only tell what you know.
Q. (By Mr. Thomas) Yeah. What you know.
A. Yes. I know Joe Turnam.
Q. You know Joe Turnam, and Joe Turnam has been instrumental in trying to advance economic development in the Shorter community, hasn't he?
A. Yes.
Q. Nobody disputes that, do they?
A. No.
MR. GRAY, JR.: Well, we don't know about nobody.
MR. THOMAS: Wait a minute.

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MR. GRAY, JR.: It may be that he doesn't.
MR. THOMAS: Well, again, I --
MR. GRAY, JR.: It may be somebody out there. That's what I'm saying.
MR. THOMAS: I don't have any problem. But we're comfortable with the record. Y'all know I wouldn't take advantage of it.
Q. But the general reputation of Joe Turnam is that he advances economic development in Shorter, correct?
A. Yes.
Q. Now, somewhere along the line of January, February of 2005 didn't Mr. Turnam contact you regarding the interest of Frank Thomas in operating bingo gaming in Macon County?
A. Yes, he did.
Q. And what did Mr. Turnam tell you?
A. That, that he was interested in operating bingo in Macon County.
Q. And isn't it a fact that Attorney Bobby Segall, an attorney practicing in the

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State of Alabama and principally out of the Montgomery, Alabama --
A. Yes.
Q. -- contacted you and talked with you on behalf of Frank Thomas, didn't he?
A. Yes.
Q. And what did Mr. Segall say to you?
A. To the best of my recollection, he was talking about gaming for Mr. Thomas.
Q. And both of those --
A. I don't -- excuse me. I don't know if he -- if Mr. Segall specifically relayed it to Mr. Thomas.
Q. What do you mean relayed it to Mr. Thomas?
A. I can't remember if he -- I know Joe Turnam did.
Q. But it is a fact that Attorney Bobby Seagall contacted both you and your wife, Pebblin Warren, about Mr. Thomas' interest in bingo in Macon County?
A. He contacted me.
Q. He never had any discussions with

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Representative Pebblin Warren?
MR. GRAY: He said no. Now, if you want to ask about his knowledge of that, but it's no way for him -- even though it's his wife, he doesn't know everybody she talked with.
Q. (By Mr. Thomas) Well, do you have any knowledge of --
A. I don't --
Q. -- Bobby Seagall or Joe Turnam --
A. I talked with Joe Turnam and Bobby Seagall. I don't know what --
Q. You don't have any knowledge of Representative Pebblin Warren talking to either of those gentlemen about bingo --
A. Frank Thomas?
Q. Yes.
A. No.
Q. You don't ever recall Frank Thomas being in your home wherein both you and Representative Pebblin Warren discussed his efforts to get a bingo license in Macon County?
A. I talked with Mr. Thomas.
Q. At your home?

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A. At my home.
Q. Was Representative Pebblin Warren there?
A. She was there.
Q. Did she participate in the discussions?
A. I talked mostly with Mr. Thomas.
Q. Now, let's talk about -- when do you recall the first discussion with Mr. Thomas in your home or at your office or anywhere?
A. It was at my home.
Q. When was that?
MR. GRAY: Now, you're talking about the first conversation he had with him with reference to bingo --
MR. THOMAS: Right.
MR. GRAY: -- or a license for any form of bingo?
Q. (By Mr. Thomas) Sheriff, all of my questions are going to relate to Mr. Thomas' discussions with you about a bingo license.
MR. GRAY: All right. Because earlier you asked him about it, and he told you

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about land that he had sometime before.
MR. THOMAS: Well --
MR. GRAY: And I want to be sure of what we're talking about.
Q. (By Mr. Thomas) We had progressed past your purchase of the land that you subsequently built a home on earlier, am I correct?
A. Yes.
Q. And you were with me about discussions relating to his application for a bingo license, right?
A. Yes.
Q. Okay. So, we appreciate your counsel keeping us focused, but we are focused, aren't we? Yes?
A. Yes.
Q. Now, at your home, what did Frank Thomas say to you about his interest and his desire to get a license for Class B bingo gaming?
A. He stated his desire to get a license to play bingo -- to conduct bingo.

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Q. And what was your response to some of the things Mr. Thomas shared with you?
A. If he abided -- if he followed the rules and regulations. That was my discussion with him.
Q. Did you ever tell Frank Thomas that you were going to give him a license to conduct bingo gaming in Macon County?
A. If he followed the rules and regulations.
Q. Did you ever tell Joe Turnam that you were going to give Frank Thomas and his organization and Reach One, Teach One a license to conduct Class B bingo gaming?
A. I don't remember stating that to Mr. Turnam.
Q. What about Attorney Bobby Seagall?
A. I don't remember stating that to Mr. Segall.
Q. Now, when you say -- this is in 2005?
A. Uh-huh (affirmative).
Q. And it is before he submitted the

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application to you sometime around July 25, '05?
A. Yes.
Q. Now, what was your definition of if he followed the rules and regulations?
A. If he followed the rules and regulations.
Q. Now, let me ask you about the rules and regulations. Didn't the regulations require that -- well, no. Skip that.
Did you ever at any time advise Mr. Thomas or anyone with Reach One, Teach One of the granting or the denial of their application after it was submitted?
A. No.
Q. Why not?
A. I was -- Mr. Thomas submitted an application that had Class B bingo license and a Class B operator's license on the same form, in the same application.
Q. And what was --
MR. GRAY: Let him finish.
MR. THOMAS: He's pausing, Mr. Gray. I think he --

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MR. GRAY: Well, he pauses anyway.
MR. THOMAS: I appreciate that.
Q. If you don't mind -- and I don't mean any ill-will -- let me know when you're finished because I take a long -- I assume that when you pause you're finished. And it's been my experience that you normally have finished.
So, I want to just -- if you would, just queue me when you're finished.
A. Okay. I'm trying to think.
Q. I understand. And feel free to take your time.
A. Mr. Thomas submitted an application with Reach One, Teach One, who would be a Class B charitable application, and information with his Class B operator's license combined in the same application. And that was confusing.
I did not know -- I did -- Class B operators cannot submit a license for a Class B license. He has to submit a license for a Class B operator's license, and that should be separate from the Class B license for the charity.

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Q. Now, did you ever communicate that to Mr. Thomas?
A. Mr. Thomas -- in the conversation that I had with Mr. Thomas at some point I relayed to him that his application was not -- well, I was confused by Mr. Thomas' application.
At some point during that time Mr. Thomas came to my house, and when my wife approached him about being at the back of my house, he went off on her. So, I in a -- whatever conversation we had later was sort of strained, and I sort of let Mr. Thomas know that his application was not proper.
Q. Are you finished?
A. Yes.
Q. When was that, sheriff?
A. It was sometime -- it was before -- hold it. No, let me retract. Let me go back. Mr. Thomas -- I'm sorry. Let me restate that.
That incident was before Mr. Thomas turned in his application. When he turned in his application, I looked at it and I saw that both of those information were on the same

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application and I -- I took it that Mr. Thomas was trying to get the approval of a Class B charitable license and a Class B operator's license approved simultaneously.

Q. Your lawyers won't let me ask you a question until they are thoroughly --

A. Sure.

Q. -- convinced you're through.

A. I'm through.

Q. So, you have to --

A. I'm through.

Q. Okay. Now, is there anything in the rules and regulations that you have promulgated that require separate applications?

A. A Class B operator's license requires a different set of documents than a Class B operator -- a Class B bingo license. I'm through.

Q. Where is the form then for a Class B operator's license?

A. The form is you -- it's just like a Class B bingo license, but in the rules and regulations it states the documents that you

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should have.

MR. THOMAS: Okay. Let me do this. Fred, take a look at this. Let me have this marked.

(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 11 to the deposition of David M. Warren.)

Q. Sheriff, if I may, let me show you what has been marked as Plaintiffs' Exhibit 11. And if I may, sheriff, could I just look over your shoulder?

A. Uh-huh (affirmative).

Q. Sheriff, that's the Macon County, Alabama Instructions for Bingo License Application?

A. Yes, sir.

Q. If I may, let me call your attention to Paragraph 2(B). List the name and home addresses of each person who will be operating or promoting the bingo game.

Are those instructions a part of the rules you had identified?

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A. Under which, (A)?

MR. GRAY, JR.: Repeat your question.

Q. (By Mr. Thomas) Are those rules that were issued by your office?

A. Yes.

Q. Okay. And those particular instructions for bingo license application make it very clear to list the names and home addresses of each person who will be operating or promoting the bingo game, right?

A. Yes.

Q. And then (G) says please indicate whether the applicant is seeking a Class A or Class B bingo license, right?

A. Yes.

Q. If applying for a Class B bingo license, you must include with the application the additional information required by the rules and regulations for the licensing and operating of bingo games in Macon County, right?

A. Uh-huh (affirmative).

Q. Is that correct?

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A. Yes.

Q. What was submitted by Mr. Thomas and Reach One, Teach One, didn't it substantially comply with providing you with that information?

A. Yes.

MR. THOMAS: If I may, I'd like to offer Plaintiffs' Exhibit 11.

MR. GRAY, JR.: No objection.

Q. (By Mr. Thomas) So, I guess now that -- did you get a chance to look at the information that had been submitted?

A. Yes.

Q. Have you officially ever communicated to Reach One, Teach One or Macon County Investments that the application has been denied?

A. No.

Q. According to your testimony, you received the application somewhere on or about July 25, '05, right?

A. '05. Uh-huh (affirmative).

Q. And up and including the time that

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this lawsuit was filed on March 9th, 2006, you had not in any form or fashion advised Reach One, Teach One or MCI that their application had been denied, had you?
A. No.
Q. Why not?
A. Mr. Thomas -- oh, why I didn't --
Q. Yeah.
A. -- contact them?
Q. Yeah. And let them know that either you were granting or you were denying their application.
A. I had a conversation with Mr. Thomas. And to the best of my knowledge, Mr. Thomas -- Mr. Thomas had not met -- for him to operate bingo for a charity, he would have to first meet the requirements of the rules and regulations.
Q. And when was this discussion with Mr. Thomas?
A. The regulations clearly state that for you to conduct bingo games with -- for an entity you must first have 15 charities. You

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must also have a facility to inspect and to -- yes.
Q. Make sure you -- if you don't mind, we were doing pretty well I think in the way you and I were asking and answering each other.
So, I'm just going to let your lawyers key in again when they think I'm cutting you off. Okay?
A. All right.
Q. I think it's just unreasonable for two reasonable people to not be able to talk. Okay. And if for some reason you think I am cutting you off, just say hold up, Ken, let me answer it.
Okay?
A. No problem.
Q. No problem. And we'll let the lawyers do what they need to do. Okay?
MR. GRAY: He didn't finish his answer. You stopped him before he finished. He was telling you about the charities. He was telling you about the facilities, and he hadn't finished. Then you went and jumped on the

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lawyers. He didn't finish.
Q. (By Mr. Thomas) Are you okay, sheriff?
A. I'm fine.
Q. Sheriff, my question --
MR. GRAY: You don't want him to finish. Okay.
Q. (By Mr. Thomas) Sheriff, when was this discussion that you had with Mr. Thomas, was what I was focusing on?
A. Mr. Thomas called me on numerous occasions. Mr. Thomas -- we had conversations on occasions. And from the rules and regulations Mr. Thomas knew that -- what it took to operate a Class B gaming facility.
Q. And, if I may, sheriff, would it be fair that some of these discussions took place after July 25, '05?
A. Yes.
Q. Now, in July of '05, it would be a fair assessment, based on your earlier testimony, that 60 -- or at least 60 of the charities that you said could be outstanding at

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any one time had already been committed?
A. I'm not sure about that. Well, excuse me. Ask that question again.
Q. You have produced to me what we've identified as the 2006 Class B bingo licenses?
A. Yes.
Q. And attached to many of these are the licenses that were issued for 2005?
A. Uh-huh (affirmative).
Q. I would want to submit to you at least 58 of them are licenses for -- 58 of these documents contained licenses that would be in force and effect for 2005?
A. Yes.
Q. Okay. And your rule that was in force and effect effective January 1 of 2005 said that there must be a minimum of 15 charities, am I correct?
A. Exactly.
Q. And you would only allow 60 licenses to be issued?
A. At that -- at --
Q. At that time?

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A. At that time.
Q. So, in July of 2005, it would be a fair assessment that there would be no way that 15 charities could apply within your rules for a Class B bingo license?
A. Well, Mr. Thomas had always contended that he wanted to just play for one charity, and I'm not sure if that was his reason for submitting the one he had.
Q. But under the rules that were in force in all of 2005, one charity under the rules could not get a Class B bingo license to operate Class B bingo gaming?
A. Yes.
Q. Okay. So, what I'm trying to make sure I clearly understand from you is that in July of 2005 there were more than 45 charities with licenses, Class B licenses?
A. I'm not sure.
Q. Well, if there were -- and I represent to you that there were -- that means, based on your rules and regulations that you promulgated, no 15 charities could come together

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in order to meet the requirement that you had set forth?
A. Exactly.
Q. Then the second part of that, you had to have invested in a facility and paid at least $15 million --
A. Uh-huh (affirmative).
Q. -- before you would even consider an application; is that correct?
A. That's true.
Q. Let me ask you this, sheriff. Just as a person, not as a sheriff.
Would you put up a building for $15 million and hope that the sheriff will grant you a license? Just as a person.
A. Probably not.
Q. Okay. Now, sheriff, if you would, in July of 2005 how could, conceivably and realistically, a nonprofit organization obtain a Class B bingo license?
MR. GRAY, JR.: You mean other than the way that the Class B license holders that got them in 2005 did it? You want to know how

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did they do it?
MR. THOMAS: No. My question to him was straightforward, and I think he understood it.
Q. Sheriff?
A. How to -- after?
Q. In July of 2005, with all of the licenses that you had already issued -- which I represent to you were more than 45 because you only would allow 60 to be outstanding.
As a matter of fact, in July of '05, a nonprofit organization could not get a Class B license?
A. A nonprofit organization --
Q. Nonprofit.
A. -- could not get a license in 2005?
Q. July of 2005.
A. In July of 2005. A nonprofit organization may have been able to get a license in 2005.
Q. Under what conditions?
A. A nonprofit -- a nonprofit -- if there were, as you said, around 45 or less than

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45 -- it wasn't 60. So, a Class B license could be issued to a charity.
Q. But isn't it a fact that in that instance that charity would be limited to the one qualified location, which was VictoryLand?
A. Yes.
Q. Currently, as we have just gone through all of the licenses for 2006, all 60 of the limit that you imposed have been issued?
A. Yes.
Q. So, at this point in time a nonprofit organization could not get a Class B license under any set of circumstances?
A. At this point in time.
Q. Okay. And an operator could not obtain a qualified location status until they built a facility and had paid at least $15 million for it?
A. Yes.
Q. Let me ask you this. The Reach One, Teach One application and the materials that were submitted by MCI, they had -- in order to have obtained a public liability insurance,

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there first had to be a facility, right?
A. Yes.
Q. Then as it relates to the liquor liability insurance, that only comes into play if you're serving liquor?
A. Yes.
Q. From the drawings that you reviewed, did it appear that there was ample space for adequate parking in their plans?
A. Yes.
Q. On-site security at the location as prescribed by the sheriff. Obviously, you must have a building, right?
A. Uh-huh (affirmative).
Q. You have to answer out.
A. Yes.
Q. On-site first aid for personnel as prescribed by the sheriff. Again, you still have to have a facility --
A. Yes.
Q. -- built, right?
A. Yes, yes.
Q. Cash or surety bond in the amount

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not less than $1 million. I think there's a letter in that application packet from McGrief Seibels confirming that they were qualified for that, right?
A. Yes.
Q. Such accounting procedures controls and security monitoring necessary to preserve and promote the operation of bingo games and to ensure the protection of the charitable license holder and its patrons.
There's confirmation there from Jackson and Thornton CPAs of them being on retainer by MCI; isn't there?
A. Yes.
Q. Then satisfactory evidence that the owner or owners of the location paid at least $15 million for the building, land or other capital improvements.
That's clearly set forth in Exhibit G attached to the application I think.
MR. GRAY, JR.: Check and look and find it.
THE WITNESS: Section what?

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Q. (By Mr. Thomas) Exhibit G, sheriff.
A. Exhibit G?
Q. Yes.
A. Yes.
Q. Sheriff, if I may -- and I'm standing up just to show you.
A. That's okay.
Q. The document that is Plaintiffs' Exhibit 10(A) clearly states there in one of the notations all facilities will comply with The Americans with Disabilities Act and life safety codes?
A. Yes.
Q. Okay. So, that was in the application.
Satisfactory evidence that the owner or owners of such location -- like Frank Thomas. You were familiar with him, right?
A. Uh-huh (affirmative).
Q. You had bought property from him three years earlier, hadn't you?
A. Yeah.

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Q. You were pretty comfortable he was a resident of the area, right?
A. Of what area?
Q. Of the State of Alabama. I'm sorry.
A. Yeah.
Q. So, some of the significant -- well, the deficiencies in this application, based on your testimony, is they didn't have the requisite 15 charities; is that correct?
A. Exactly.
Q. And did not have the facility built which they would pay for that cost more than $15 million?
A. Yes.
Q. If they had the requisite charities and the structure built, would they get a license?
A. By law, if they had all of those things in -- by the rules and regulations, if they had those things in place, theoretically they would get a license.
Q. You didn't have any problems with

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Mr. Thomas' attitude or anything and his commitment to Macon County, did you?
A. I don't know Mr. Thomas that well.
Q. You don't?
A. No.
Q. Okay.
A. Really.
Q. You had problems with Reach One, Teach One?
A. I don't -- I don't have a problem with Reverend Walker. I don't know that much about his organization.
Q. But Mr. Reverend Walker's attitude and commitment to betterment of mankind and civic activity and involvement would meet some of your minimum tests, wouldn't it?
A. I don't have a problem with Reverend Walker.
Q. Would the same hold true for his organization?
A. I don't know. I haven't had any experience with his organization. I don't know.
Q. Did you do any kind of background

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check on him once you got the application?
A. Reach One, Teach One was a -- as far as I was concerned, was a legal charity, had a tax number and all of that.
Q. Got you. And that was a part of the application. Did I interrupt you?
A. No.
Q. Now, sheriff, let me ask you this.
MR. THOMAS: I probably need to do two items.
I thought they were just observing.
MR. GRAY: Huh?
MR. THOMAS: I thought they were just observing.
MR. GRAY: I can't let her look at it? She's observing.
MR. GRAY, JR.: How can one observe and not look?
MR. GRAY: And not see what we're doing.
MR. THOMAS: Okay.
MR. GLASSO: I think she can look at it. She's been here conferring with you and

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passing notes. I think she's been participating in the deposition.
So, right. I think we've been more than courteous just to make the record clear.
MR. THOMAS: Would you mark that?
MR. GRAY, JR.: Exhibit 12?
COURT REPORTER: Plaintiffs' 12.
MR. GRAY, JR.: All right.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 12 to the deposition of David M. Warren.)
MR. THOMAS: Sheriff, if you don't mind, let me clear up Plaintiffs' Exhibit 9 to make sure it doesn't get loose. Did I move to admit Plaintiff's Exhibit 11? I think I did.
MS. SALAAM-JONES: It's down there.
MR. THOMAS: Yeah. Why don't we get some of these up here so we can keep up with them.
MR. GRAY, JR.: What was 10(C)?
MR. SALAAM-JONES: 10(C), we're not going to have.

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MR. THOMAS: We withdrew it.
MR. GRAY, JR.: Okay. What was it, though?
MS. SALAAM-JONES: It was the property release receipts.
Q. (By Mr. Thomas) Sheriff, let me show you Plaintiffs' Exhibit No. 12 and ask if you can identify it.
A. Uh-huh (affirmative).
Q. Were you aware of the information that was supplied on behalf of this organization?
A. Yes.
Q. And the applicant name is a Deborah Gray?
A. Yes.
Q. Okay. Who is the daughter of Attorney Fred Gray?
A. Yes.
Q. And the sister of the attorney that worked with you on preparing all of the rules and regulations relating to a Class B bingo license?

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A. Yes.
Q. And if I'm not mistaken, based on Plaintiffs' Exhibit No. 5 -- I'm sorry, Plaintiffs' Exhibit No. 3, this person was one of the first organizations to get a bingo license; is that correct?
A. Yes.
MR. THOMAS: We now offer Plaintiffs' Exhibit 12.
MR. GRAY, JR.: No objection.
Q. (By Mr. Thomas) Sheriff, are you aware that -- how long has Fred Gray, Jr. been representing you as sheriff of the Macon County Sheriff's Department?
A. Probably since I first got in office.
Q. Which I think was 1995 or thereabouts?
A. Yes.
Q. Were you also aware that Fred Gray, Jr. and his law firm have been representing the Macon County Greyhound Park, doing business as VictoryLand, for several years?

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Were you aware of that?
A. Yes.
Q. At times when, according to your own testimony, Fred Gray, Jr. was advising you and making recommendations and writing and drafting for you your initial rules, your first amended rules and your second amended rules, his partners and father and brother were representing VictoryLand at the same time?
A. Yes.
Q. You didn't see a conflict in that? As sheriff, you would be the regulator of Class B bingo in Macon County; is that correct?
A. Yes.
Q. And VictoryLand has been, and still is, the only qualified location for a Class B bingo license?
A. Yes.
Q. And the law firms that represent you and VictoryLand are one and of the same?
A. Yes.
Q. And that doesn't concern you as a state official who is responsible for regulating

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an industry?
A. I have had a relationship with Fred Gray, Jr. since I was a police officer with the City of Tuskegee. I don't -- I don't have a problem being represented by him. And what I have done in my capacity as sheriff, I have always tried to do the best -- my best to be a fair and impartial person.
Q. But, again, aside from that, you are the sole regulator of Class B licenses?
A. Exactly.
Q. You don't think that the public would have some concern about the law firm advising you on regulations and representing the one and only qualified location?
I mean, is public concern one of your issues?
A. Yes.
Q. Doesn't that appear to have some appearance of impropriety?
A. The impropriety would come, in my opinion, if -- if you acted improperly.
Q. Well, let me ask you this. The

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fact that now as we speak no nonprofit charitable organization could get a Class B license, doesn't that concern you?
As we speak, no nonprofit organization can get a license to conduct Class B bingo gaming in Macon County.
A. This is at this time.
Q. Yes.
A. That -- I have concerns about -- I have concerns about the fact that this is done properly and it does not turn into something that we will later regret.
Q. Milton McGreggor is president and CEO of VictoryLand; am I correct?
A. Yes.
Q. He can communicate to you, through the law firm, anything that he needs to, and it's all protected under some attorney/client privilege, isn't it?
MR. GRAY, JR.: Objection to the form of that question. He may not understand and know about what the law --
MR. THOMAS: Well, what we're

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saying, it --
MR. GRAY, JR.: -- is on attorney/client privilege.
MR. GRAY: And there's no way he can know what Milton McGreggor would do.
MR. THOMAS: Well, we don't --
MR. GRAY: You can make any inference you want to with him, but to have the witness testify about what another person would testify to is improper. And we object to the form.
Q. (By Mr. Thomas) Well, can you answer, sheriff?
MR. GRAY, JR.: Well, what's your question?
Q. (By Mr. Thomas) Has Milton McGreggor communicated to you, through the Fred Gray law firm, information regarding Class B gaming, bingo gaming, and the regulation of that?
A. Not to my knowledge.
Q. Well, sheriff --
A. Not to my knowledge. You know, I

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would guess that when people -- people may -- probably can easily get that impression, but not to my knowledge because I have my own set of values and thoughts about this.
I remember how Macon County has suffered, and I think it is my duty, as the sheriff, to look out for the best interest of Macon County. And that's what I do.
Q. And what is that best interest, sheriff, as you see it?
A. To make sure that every -- to make sure that when people do come to Macon County to do this that I protect the interest of the average citizen who voted for this.
Q. Are you finished?
A. I'm through.
Q. How would that be offended by bringing a license to Reach One, Teach One and at a location, a qualified location, a license to MCI?
A. I'm -- I just made that as a statement. I'm not saying Mr. Thomas, nor Reverend Walker would have an adverse affect on

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Macon County.
Q. You are required, I think, since you initially promulgated rules and regulations, to do background checks on those who are -- hold on. Bear with me a second.
Those who own the qualified location --
A. Yes.
Q. -- if it's someone other than the Class B license holder, you required to do investigation and backgrounds of those who have an interest in the ownership of the qualified location, aren't you?
A. Yes.
Q. Have you done so for VictoryLand, investigated all of those who own or are principals shareholders or partners in that entity?
A. I am -- on some of them.
Q. Define for me on some of them.
A. Mainly Milton McGreggor and -- mainly Milton McGreggor.
Q. Who are some of the other

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stockholders, partners, shareholders of that business entity?
A. Some of the stockholders?
Q. Who are they?
A. I can't -- mainly Milton McGreggor at this point.
Q. You've said that. But my question was: Who are some of the other persons you've done background checks and confirmed who are shareholders, members or partners?
A. That's the extent.
Q. Do you know whether or not Fred Gray is a stockholder, investor, member, partner of VictoryLand?
A. Yes.
Q. He is?
A. (Whereupon, the witness indicated an affirmative response by nodding his head up and down.)
Q. Which one, a partner?
A. I'm not sure.
Q. Well, what's the extent that you know of his investment?

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A. I don't know the extent of his investment.
Q. And when I say Fred Gray, I'm saying respectfully Fred Gray, Sr.
A. Yes.
Q. Okay. Sheriff, now let me see if I understand. Fred Gray, Sr. is the senior partner in the law firm of Gray, et cetera; is that correct?
A. Yes.
Q. And you know that?
A. Yes.
Q. And to your own knowledge is an investor in VictoryLand?
A. I don't know that per se. I don't know that per se.
Q. And what do you mean by you don't know that per se?
A. I don't know if he's an investor or not.
Q. Well, you just stated that he was.
A. I don't know that per se.
Q. Well, aren't you required to make

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some determination at the qualified location of those who are partners, members or stockholders of such entity that own collectively at least two-thirds (2/3) of the voting rights and equities of such entity?
A. Yes.
Q. Well, have you done that?
A. (No verbal response).
Q. Have you done it?
A. Have I done?
Q. Have you done some type of review and made some confirmation of the entity that owns the qualified location at VictoryLand?
A. Yes.
Q. Okay. And my question to you: Who among the partners, members or stockholders of that entity have you made such an inquiry regarding?
A. No one at this time.
Q. You just said Milton McGreggor.
A. I did. I said I did Milton McGreggor, and that was it.
Q. Well, aren't you required to do

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more than that?
A. Yes.
Q. Why have you not? And this is what you have been required to do since December 5, 2003, in your first -- your initial rules and regulations. This is what you said you would do.
And my question is two and a half years later you have not done that; is that correct?
A. I have -- I have not formally done it.
Q. And my question is why not?
A. Most of -- mostly because they have been through such an extensive background check that -- yes.
Q. What information are you privy to that you would make such a statement about?
A. Anything that is at VictoryLand I have privy to, I'm privy to.
Q. State to me the names of the persons who you know are the partners, members or stockholders of that entity.

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I'm sorry. State for the Court who you know are the partners, members or stockholders of the entity known as Macon County Greyhound Park, doing business as VictoryLand, located at 8680 County Road 40, Shorter, Alabama 36075.
A. I can't call all their names off the top of my head.
Q. Do you have records of the names of those individuals?
A. Yes, I do.
Q. And would you have any objection to producing to me the names of those persons that you have on record who are the partners, members and stockholders of Macon County Greyound Park, doing business as VictoryLand?
A. No.
Q. Okay. And you'll do so through your attorney?
A. Yes.
Q. Let me ask you this. I just want to make sure that I understand your previous testimony.

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Is it your testimony now that you don't know whether or not Fred Gray, Jr. -- whether or not Fred Gray, Sr. is a partner, member or stockholder of VictoryLand?

MR. GRAY, JR.: You actually asked earlier whether he was an investor.

MR. THOMAS: Again, let me use his language.

THE WITNESS: I don't know whether he's an investor or not.

Q. (By Mr. Thomas) But the records that you have in your office will identify for us those partners, members or stockholders of VictoryLand?

A. Yes.

Q. And you'll produce that?

A. Yes.

Q. If it is established that Fred Gray or some other members of his firm are partners, members or stockholders of VictoryLand, do you see that as being any conflict with Fred Gray, Jr. advising and appearing and drafting rules and regulations to govern Class B bingo in Macon

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County?

A. I don't -- I truly don't see that as a conflict.

Q. You do?

A. I don't --

Q. You don't see that as a conflict?

A. -- personally.

Q. Do you see how others could possibly --

A. I can see how others possibly would.

MR. THOMAS: Okay. If we could have five minutes. I'm at my conclusion.

(Whereupon, the taking of the deposition was recessed from approximately 4:44 p.m., to approximately 5:04 p.m., after which the following proceedings were had and done:)

Q. Sheriff, since the implementation of your rules in December of '03 to the present, what is your knowledge of the monies that have been passed on, given or awarded to the various charities?

A. I have no -- other than the amounts

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that they get, we have not made any inquiries as to how they use those funds but that -- we're working on that right now.

Q. Well, what amount do you know of that the charities have received since the implementation of your rules in December of '03 to the present?

A. I don't know that amount exactly.

Q. Can you give the Court any guesstimate of what monies have been paid to the charities?

A. A guess?

Q. Yes.

MR. GRAY, JR.: No. He's not going to guess.

Q. (By Mr. Thomas) Well, you are the official who would know; am I correct?

A. I can -- I have that information.

Q. Well, do you have any objection to producing that to us?

A. No.

Q. And again, sheriff, that would be from the implementation of the rules in December

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of '03.

MR. GARY: Why don't we -- so that the record is clear, whatever you want make an appropriate request for it.

MR. THOMAS: Yeah. We're going to do the wish list. Thank you, sheriff.

Q. Sheriff, do you have any knowledge of what monies or gross receipts have been received by the one qualified location, VictoryLand, since the implementation of your rules from December '03 to the present --?

A. No.

Q. -- August of '06?

A. No.

Q. Is that information reported to you?

A. No, it's not.

Q. Do you know who it is reported to?

A. I have access to it.

Q. Would you have any objections to producing that information that you --

MR. GRAY: We're going to object to producing anything. You just have to request it

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by proper means.
Q. (By Mr. Thomas) Describe your access to this information, the gross receipts of the qualified location doing business as VictoryLand?
A. Through the business office.
Q. The business office?
A. Yes.
Q. Is there any particular official of VictoryLand who would be your primary contact person?
A. I'm free to contact anybody there any time to get whatever.
Q. And at any time have you ever done that?
MR. GRAY: Done what?
MR. THOMAS: Contacted an official at VictoryLand to find out what their gross receipts have been.
THE WITNESS: Early on.
Q. (By Mr. Thomas) About when?
A. It was early in the process.
Q. The rules were implemented in

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December of '03. When would it have been?
A. Maybe a few months after that.
Q. And at that time what were you told the gross receipts were?
A. I don't remember. It was -- I don't exactly remember.
Q. Well, was it in the thousands?
A. I'm pretty sure it was. It was by word of mouth.
Q. You didn't ask to see any records?
A. No.
Q. And since that time -- have you made any inquiries of the one qualified location since the implementation of your rules have been in force and effect of what their gross receipts have been?
A. No.
Q. Why not?
A. I have -- really, I'm not -- I'm not -- I'm not -- I just haven't. That's all.
Q. You have visited VictoryLand and you've seen the increase in people who have attended, and through your own rules and

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regulations you've increased the prize money up to $20 million.
And in your earlier testimony you were making references to you wanted to make sure that the charities were benefiting?
A. Yes.
Q. You never had the question of trying to find out how much money VictoryLand was making in gross revenues to come to mind?
A. No.
Q. Wouldn't it be a concern of yours to know that information?
A. Yes.
Q. And notwithstanding that concern, you haven't taken any efforts to ascertain that information?
A. Not at this time.
Q. What if VictoryLand is making billions of dollars and the charities are only getting hundreds? What would be your position on that?
A. Well --
Q. Excuse me?

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A. I'd be surprised.
Q. And concerned?
A. And concerned.
Q. And that would not be the spirit of your rules and regulations, would it, for the qualified location to make all of the money and the charities not receive anything?
That wasn't the spirit of your rules, was it?
A. Exactly.
Q. When do you plan to make that kind of inquiry to VictoryLand?
MR. GRAY: We object to the form.
Q. (By Mr. Thomas) It's noted. Go ahead and answer, sheriff.
MR. GRAY: It presupposes.
THE WITNESS: I intend to deal with that.
Q. (By Mr. Thomas) When?
A. In the very near future.
Q. It's important, isn't it? That's important information, isn't it?
A. Yes.

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Q. Returning back to your earlier testimony about -- when you stated early on that you thought that Fred Gray, Sr. was an investor, was that at times during 2003, 2004, 2005 and currently?
MR. GRAY, JR.: You're asking did he think that at that time?
MR. THOMAS: Well, that's what he said, he thought he was an investor.
Q. Isn't that what you testified to, that you thought that Fred Gray, Sr. was an investor in VictoryLand?
MR. GRAY, JR.: That he thought it then? Or that he thinks it now, is your question?
Q. (By Mr. Thomas) Well, then. I'm very specific with the question. When you testified that you thought that Fred Gray, Sr. was an investor in VictoryLand, was that in 2003?
A. No.
Q. 2004?
A. I'm not sure when it was.

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Q. 2005?
A. I said I'm not sure when it was.
Q. 2006. I'm just attempting to refresh your recollection. That's all.
A. Uh-huh (affirmative).
Q. So, you just don't recall?
A. I don't recall when it was.
Q. Have you ever received any personal gift or payment for services or any other monies from Milton McGreggor?
A. No.
Q. You stated earlier that you had received a campaign contribution from VictoryLand and Milton McGreggor.
A. I did not state that I had received a campaign contribution. I stated that I did -- they probably worked on my campaign. I don't know in what capacity though.
Q. So, let me just specifically ask you, have you ever received a campaign contribution from Milton McGreggor?
A. No.
Q. Have you ever received a campaign

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contribution from VictoryLand?
A. No.
Q. Just as a follow-up to your response earlier about you didn't know in what capacity they worked on your campaign, who are you making reference to when you say "they"?
A. There were employees who worked in the field for me who worked on my campaign. Other than that, you know, they carried literature and things like that.
MR. THOMAS: Sheriff, bear with us one second, and we'll see if we can wrap this up. Let me ask -- well, let me see first if he can identify this.
MR. GRAY: It's a check in 2004? It's not -- the campaign had just ended.
MR. THOMAS: Well, I don't know. We don't know. That's why we're asking. This is in '04.
MR. GRAY: That's '04. Is that another one?
MR. THOMAS: That's another one. Let me go ahead and mark this.

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(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 13 to the deposition of David M. Warren.)
THE WITNESS: I never received this.
Q. (By Mr. Thomas) Sheriff, if I may, let me show you what has been marked as Plaintiffs' Exhibit 13 --
A. I've never received this.
Q. -- and I'll ask you if you can identify this document?
A. Yes.
Q. You can?
A. I mean, I see it's a check.
Q. Okay. It is paid to the order of David Warren in the amount of the $5,000 and it's dated May 6th, 2004, and it appears to have a signature of a Milton McGreggor.
Are you familiar with the signature of Mr. McGreggor? You can answer.
A. 2004.
Q. That was about a month before you

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did your first amendment to your regulations. You remember on June 2nd, 2004, you did your first amendment. This was about a month before then.
Did you ever receive this check?
A. (No verbal response).
Q. You can answer, sheriff.
A. I don't remember receiving this check.
Q. Okay. You don't ever remember seeing this?
A. I don't remember receiving that.
MR. THOMAS: As a housekeeping chore, all of the exhibits that I have not offered to be admitted and made a part of the sheriff's deposition, I now do so.
MR. GRAY, JR.: Without seeing anything on the back that shows that's been negotiated, we object to the introduction or even the offering of Plaintiffs' 13.
MR. THOMAS: But he said he didn't remember it. So --
MR. GRAY: Do you have the other --

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the back of it?
MR. THOMAS: No.
MR. GRAY, JR.: You don't have the original?
MR. THOMAS: Well, we're not admitting it. He said he couldn't identify it.
MR. GRAY, JR.: Yeah. I'm just asking do you have the original?
MR. THOMAS: I do not.
MR. GRAY, JR.: Okay.
THE WITNESS: I don't remember getting a check.
MR. THOMAS: Well, that's all that matters.
MR. GRAY, JR.: Okay. That's it?
MR. THOMAS: With that and offering all of the exhibits we've offered, we'll now tender the witness.
MR. GRAY, JR.: All right. Thank you.
EXAMINATION BY MR. GRAY, JR.:
Q. Sheriff, I have just a few questions for you. And you've sat in here for

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about the past eight hours or so?
A. Uh-huh (affirmative).
MR. THOMAS: Not including lunch and various breaks.
MR. GRAY, JR: He still had to sit in here.
MR. THOMAS: What?
MR. GRAY, JR.: He's still been sitting in here.
MR. GRASSO: Well --
MR. GRAY, JR.: Well, let me just ask my questions. That's not --
MR. GRASSO: That's fine.
Q. (By Mr. Gray, Jr.) Sheriff, over the course of the time that you have had anything to do with bingo and Macon County, have you treated applicants fairly?
A. I think I have.
Q. And with respect to the applications that you received, have you given each one consideration?
A. Yes.
Q. With respect to applications that

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you received even as early as December of 2003, what's the process?
A. What is the process?
Q. Yes. Do you receive a -- where would people even get the applications?
A. At the sheriff's office.
Q. Okay. And what would you do upon receiving the completed application?
A. We would -- I'd turn it over to Tommy Miller, and he goes through it, makes sure all of the documentation is there and all the things are -- all the required stuff is there.
Q. Okay. And that happens there at the sheriff's office?
A. Yes.
Q. And what was the purpose in promulgating the rules in the very beginning? Why did you even set up any rules?
A. For the regulation of bingo.
Q. All right. Sheriff, at the point when you promulgated the first amended rules, generally speaking, what was your reason for promulgating those amended rules, the rules from

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the --
A. The first amendment?
Q. Yes, sir.
A. Amended rules?
Q. Plaintiffs' Exhibit 4.
A. It was for the -- I think six months had passed, and I saw some things that needed to be addressed.
And as I said, I had no idea that bingo would become what it was.
Q. When you say you had no idea that it would become what it was, what do you mean?
Was it less than you thought it would be? Was it more than you thought it would be?
A. Yes. It was much more than I thought it would be.
Q. And in your commentary in your first paragraph, did you generally set forth why you amended these regulations?
A. Yes.
Q. And that's set forth in the document. That's in Plaintiff's Exhibit 4?

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A. Yes.
Q. All right. Did you have any -- let me ask you this question. And then with respect to the specific changes, did you have a reason or a rationale for each particular change --
A. Yes.
Q. -- that you made?
And did you articulate your reasons in the commentary in Plaintiffs' Exhibit 4?
A. Yes.
Q. Which is the first amended rules and regulations?
A. Yes.
Q. And did you, also, when you promulgated a second amended and restated set of rules and regulations, set forth your reason for each change?
A. Yes.
Q. And did any of those changes -- were any of those changes directed at preventing Reach One, Teach One from applying for a Class B license?
A. No.

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Q. To your knowledge, was Reach One, Teach One of America a nonprofit organization in the year 2003?
A. I'd have to refresh my memory.
Q. All right. And if you looked at the application, will that help you at all?
A. Yes.
Q. And when you say the application, I'm referring to Reach One, Teach One's application. Which is Plaintiffs' Exhibit 9; is that correct?
A. In 2003 you're asking?
Q. I'm just asking whether or not they claim to have been in existence in 2003?
A. Whether or not they claim to be in existence in 2003. Let me --
Q. Just by reviewing the face of the application.
A. I can't -- there's nothing on the face that states when they were in -- how long they've been in existence.
Q. So, as you look at Page 1 of the Reach One, Teach One of America Inc.

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application, do you see anything that tells you when the entity was incorporated?
A. No.
Q. Did they provide to you a copy of the articles of incorporation with the application?
A. Let me look.

Q. I know you received the IRS determination letter. I'm asking whether or not you ever had a copy of their articles of incorporation?
A. No.
Q. Did you ever receive a copy of the bylaws from Reach One, Teach One of America, Incorporated?
A. Okay. Certificate of incorporation. Oh, this is for MCI I believe.
Q. All right.
A. I don't see an articles of --
Q. Of incorporation. All right. Let me ask you this question. Did you receive an application for a Class B license from Reach

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One, Teach One of America, Inc. in December 2003?
A. No.
Q. Did you ever tell any of the officers of Reach One, Teach One of America that they could not apply for a Class B license in 2003?
A. No.
Q. During the calendar year 2004, did you receive an application for an Class B license from Reach One, Teach One of America, Inc.?
A. No.
Q. Did you ever tell Minister Walter Walker or any officers of that corporation that they could not apply for a Class B license --
A. No.
Q. -- for bingo purposes?
During the year during the months of June -- during the months of 2005, let's say January through June of 2005, did you receive from Reach One, Teach One of America, Inc. an application for a Class B license?

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A. June of 2005?
Q. Yes, sir.
A. No.
Q. So, all the way from the time that bingo started in 2003 through 2005, you never received an application for a Class B license from Reach One, Teach One of America, Inc.; is that your testimony?
A. Yes.
Q. Let's just say, sheriff, had you received an application from Reach One, Teach One of America, Inc. in June 2005.
A. No.
Q. But if you --
A. In June 2005?
Q. Well, let's just say if you got one from them and if they had a qualified location and if they had -- well, then what would you have done with their application?
A. Say the question again.
MR. GRAY, JR.: All right. Read that back, please.
(Whereupon, the requested portion was read back.)

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Q. Don't answer that question. Let me just ask another question and ask it a little bit better, too.
Sheriff, if I told you that on July 25, 2005, there were 40 -- there had only been 40 Class B bingo licenses issued, then could 15 charities have applied to conduct bingo at another facility, assuming that facility met the requirement of a qualified location?
A. Yes.
Q. Did you receive any such application?
A. No, not during that time period.
Q. Is there anything in your rules and regulations or any of the amendments thereto that would prohibit any of the charities from canceling their license and combining with 14 other charities and attempting to get a license if they had a qualified location?
Here's what I'm asking. Say if there were 15 charities that decided they no longer wanted to do business with VictoryLand.

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A. Right.
Q. And if those 15 charities decided that they wanted to have their bingo operated by some other entity.
A. Right.
Q. And that entity, it was a qualified location.
A. Right.
Q. What would you do with the application?
A. I would approve it.
Q. Okay. Assuming that they met all the other criteria?
A. Yes.
Q. Background and that type criteria; is that correct?
A. Yes.
Q. All right. Now, if MCI had a facility, then --
Let's just say if in 2004 MCI had a facility that met the criteria set forth in your rules and regulations and if they had the 15 charities or a minimum of 15 charities then and

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complied with all of the other regulations in the rules that you set forth, then would you have approved that operator's license application?
MR. GLASSO: Objection to the form. The rules changed in '04. When in '04?
MR. GRAY, JR.: After June --
MR. GLASSO: When it was $5 million to invest or when it was $15 million to invest to get a facility?
Q. (By Mr. Gray, Jr.) After June 2nd, 2004.
A. If they met all of the criteria?
Q. Yes, sir.
A. Yes.
Q. Yes, you would?
A. Yes.
Q. You would have approved it?
A. Yes.
MR. GRAY, JR.: All right. Let me just address for one moment -- I need to inform you, counselor, of one matter on our responses to plaintiffs' first request for admissions.

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And we'll do it in writing a little bit later, but we do need to revise one of the responses.
MR. THOMAS: Which one?
MR. GRAY, JR.: Number four.
MR. GLASSO: Why don't you make it for the record and then -- and you could also do it in writing if you want.
MR. GRAY, JR.: Defendant Sheriff Warren's responses to plaintiffs' first request for admissions.
The question was did 59 Class B bingo licensees conduct bingo games through the same operator. The problem was with the number of licensees.
But suffice it to say if it was 60, then however many there were, they all conduct the bingo through that same operator.
MR. THOMAS: So, you're saying 60?
MR. GRAY: Well, no, he's not saying --
MR. GRAY, JR: I'm just saying admit.
MR. GLASSO: You're just conforming

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his testimony?
MR. GRAY: He's really conforming the responses to the --
MR. GLASSO: That's fine.
MR. GRAY: -- admissions to the testimony.
MR. GLASSO: Yeah. That's fair.
MR. GRAY: Because I think the testimony is quite clear that the only qualifying locator and the only person who had a operator's --
MR. GLASSO: We all know that. We wouldn't be here otherwise.
MR. GRAY, JR.: Okay. All right.
MR. GRAY: I'm not sure about whether we wouldn't be here.
Q. (By Mr. Gray, Jr.) Sheriff, can a for-profit entity obtain a Class B license for bingo?
A. Not a Class B license, no.
Q. Did you have a rational basis, sir, for increasing the minimum number of applicants to establish a Class B bingo facility from one

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nonprofit to 15 nonprofit organizations?
A. Yes, I did.
Q. And you've already discussed that today, haven't you?
A. Yes.
Q. And did you have a rational basis for limiting the number of Class B licenses to a maximum of 60?
A. I did.
Q. And you have set that forth to us today as well; is that correct?
A. Uh-huh (affirmative).
Q. Is that a yes?
A. Yes.
MR. GRAY, JR.: One moment, sir.
(Whereupon, an off-the-record discussion was held.)
MR. GRAY, JR.: Sheriff, just a couple of more questions perhaps.
Q. And you may have already testified concerning this issue, but when your -- when you promulgated the original rules and regulations, were they generally made public?

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A. Yes.
Q. How? How did you notify the public?
A. Published in the paper.
Q. And when you say published in the paper, what papers?
A. The Tuskegee News.
Q. And is that a paper of general circulation in Macon County, Alabama?
A. Yes.
Q. And when you promulgated the first amended and restated rules and regulation, did you also publish that?
A. Yes.
Q. And how was that -- how did the public receive notice of that?
A. In The Tuskegee News.
Q. And with respect to the second amended and restated rules and regulations for the licensing and operation of bingo games in Macon County, did you also inform the public?
A. Yes.
Q. How did you inform the public in

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that instance?
A. In The Tuskegee News.
Q. When the Attorney General announced his findings of his gambling review, did he state -- did he say anything about the expansion of gambling, whether he was for or against it? Did he say whether or not he --
A. My interpretation of what he said, he was against -- he stood against the expansion of gaming.
Q. And in fact in Plaintiffs' Exhibit 7 in paragraph two does he state as much in paragraph two?
A. Yes. That was his personal feelings.
Q. Right. And would you just read what he said with respect to expansion gambling in the State?
A. Attorney General King stated that I feel compelled to share with you my own view of gambling. I am personally opposed to gambling and have voted against its expansion when the opportunity has been presented.

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Q. Now, did -- how do you interpret that --
A. I interpret --
Q. -- with respect to bingo in Macon County?
A. Well, I interpreted that to mean that he was against expansion of gambling anywhere.
Q. And did this report come out -- was this report part of the reason that you promulgated the second amendment to the rules and regulations?
A. Yes.
Q. In particular, the part with respect to limiting the number of licensees to 60?
A. Yes.
MR. GRAY, JR.: Although, you've already stated this was not your total reasoning. You've stated pretty emphatically the balance of your rationale.
Sheriff, that's all I have. Mr. Thomas may have some more.

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FURTHER EXAMINATION BY MR. THOMAS:
Q. Sheriff, just a few questions. Why is it that when you did your further amendments to your original rules --
A. Uh-huh (affirmative).
Q. -- you never placed any limits on Class A bingo licenses?
A. There was not a reason to request the Class A -- from what I saw, that was -- the Class A was mainly the bingo for churches and other small charitable organizations.
Q. But the Attorney General said that he was personally opposed to gambling, period. I am personally opposed to gambling and have voted against its expansion when the opportunity has been presented.
He didn't say whether it was in a church or if it was out there in the backyard. He said I'm opposed to it.
MR. GRAY, JR.: There's no question pending.
Q. (By Mr. Thomas) And my question to you, isn't a Class A bingo license a bingo

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gaming gambling license?
A. It is.
Q. Okay. And you placed no limitation on Class A bingo licenses?
A. Because I didn't see any growth in it in any way.
Q. All right. Now, you were asked earlier a question about Reach One, Teach One not including in its application its articles of incorporation or stating when that organization was formed or incorporated.
Do you remember that?
A. Yes, sir.
Q. But several organizations have applied and been given application for bingo licenses who didn't state anything about when they were incorporated; isn't that a fact?
A. In their folders there is something, a -- in their statement there is -- there is some article that addresses their incorporation.
Q. We had asked you to produce all of the applications for bingo licenses, and this is

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the information that we were given.
Are you saying to me that there is more to the applications that were submitted than what counsel produced to us? I mean, I'm just --
A. Yes.
Q. I've gone through what was produced to us, the applications.
A. Yes.
Q. And I just did a little sampling. There are some more I can show you, but I guess my key question to you is that Reach One, Teach One's application is no different than these several I've shown you, is it?
A. Yes.
Q. It's no difference, is it?
A. No.
MR. THOMAS: If we could, can we mark -- Fred, these are all of the applications for bingo licenses that you produced to us.
MR. GRAY, JR.: Sure.
MR. THOMAS: And I would want to just go ahead and have them marked and made a

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part of his deposition so everybody will have equal access to them.
MR. GRAY, JR.: Is that Plaintiff's 14?
MR. THOMAS: Yes.
MR. GRAY: And 14 is?
MR. THOMAS: That's all of the actual applications.
MR. GRAY, JR.: Okay. The Class B applications that we produced.
MR. GRAY: All right.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 14 to the deposition of David P. Warren.)
Q. Sheriff, when you made reference about trying to limit the expansion of bingo, Class B bingo licenses -- do you recall that testimony?
A. Yes.
Q. Isn't it a fact that VictoryLand has added a lot of machines to its qualified location?

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A. Yes.
Q. Well, how is that limiting -- were you advised that they were adding more machines?
A. Yes.
Q. Did you approve it?
A. Yes.
Q. And you approved -- when did you approve them?
MR. GRAY, JR.: If you know, say when. If not, say you don't know.
THE WITNESS: I don't know when.
Q. (By Mr. Thomas) A newspaper article kind of reports that 2,500 new machines have been added at VictoryLand since December 2003.
MR. THOMAS: And let me show it to your lawyer first.
MR. GRAY: Which newspaper was this and when?
MR. THOMAS: Tuskegee News.
MR. GLASSO: The Tuskegee News.
MR. GRAY, JR.: Where they published the rules.

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MR. GRAY: When was it?
MR. GRAY, JR.: What's the date of this? Mr. Glasso, what's the date of this?
MR. GLASSO: I don't have the date with me.
MR. GRAY, JR.: Okay.
MR. THOMAS: Why don't you mark that.
(Whereupon, said document was marked for identification as Plaintiffs' Exhibit No. 15 to the deposition of David M. Warren.)
Q. Sheriff, let me show you Plaintiffs' Exhibit 15.
A. Uh-huh (affirmative).
Q. And this is a photo wherein I see you are present. Do you recall that particular time?
A. Yes.
Q. And apparently you are participating in the ribbon cutting, which was held at VictoryLand on March 22nd. Do you recall what year that was?

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A. No.
Q. You were made aware that this new wing that had been added to VictoryLand would have 700 new state-of-the-art bingo machines?
A. Yes.
Q. Bringing the total machines for charity bingo at VictoryLand to about 2,500?
A. Yes.
MR. GRAY: That's 16?
MR. THOMAS: This is 15.
MR. GRAY, JR.: Fifteen.
Q. (By Mr. Thomas) And were some of these machines put in trailers to your knowledge?
A. They were put in structures.
Q. But were the structures trailers or prefabs?
A. It could have been.
MR. THOMAS: We offer Plaintiffs' Exhibit 15 to be made a part of the deposition.
Q. Sheriff, how does that reconcile with your efforts to limit the expansion of Class B bingo gaming in Macon County?

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A. That is one location.
Q. One location that is expanding?
A. Uh-huh (affirmative).
Q. All right. What's the difference between one location expanding and another -- I mean, I guess what I'm trying to say, if the Attorney General has expressed concerns about the expansion of gambling in Alabama based on your interpretation --
A. Right.
Q. -- and you're allowing VictoryLand to add 700 more machines, isn't it somewhat inconsistent?
A. It could be interpreted as inconsistent.
MR. THOMAS: Okay. Let's do this.
MR. GRAY, JR.: Have you got anything else?
MR. THOMAS: Hold on a second, lawyer. Just hold your --
MR. GRAY, JR: Okay. We've been here for eight hours.
MR. THOMAS: Yeah. We've all been

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here. And we're going to be here on Friday.
I want to go ahead and make sure that I've had made a part of his deposition all exhibits.
MR. GRAY, JR.: You just --
MR. THOMAS: Slow down, lawyer. Another minute ain't going to hurt you. We've been doing petty good all day.
And, sheriff, let me just check my notes. I don't have anything else, sheriff, to ask you.
MR. GRAY, JR.: Thank you.
MR. THOMAS: Thank you, sheriff.
THE WITNESS: All right. You're welcome.
FURTHER DEPONENT SAITH NOT

CERTIFICATE

I, BELINDA S. BREWSTER, Notary Public for the State of Alabama at Large, hereby certify that the foregoing deposition was taken down by me in stenotype, the questions and answers thereto were transcribed by means of computer-aided transcription and that the foregoing represents a true and correct transcript of proceedings had on said occasion.

I further certify that the witness was duly sworn by me, that I am in no way related to nor employed by any of the parties, the witness or counsel, and that I have no interest in the outcome of this matter.

Given under my hand and seal this the 11th day of September, 2006.

____
Belinda S. Brewster
Notary Public

My Commission Expires:
September 1, 2009

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